ESTA CODE

ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011

A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS

COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT

PREFACE

The Government of N-W.F.P. Establishment Code was first published by the Services & General Administration Department in May 1987. It was subsequently updated and the revised version came out in August, 2000. Since its publication, the Establishment Code, a compendium, of laws, rules and administrative instructions pertaining to the terms and conditions of service of the Provincial Civil Servants has served as a standard reference work in the officialdom.

2. Since a period of over 10 years has elapsed during which large scale amendments in the laws and rules have been made, it was necessary to bring out a revised and updated edition of the Establishment Code incorporating the latest instructions and amendments.

3. A committee comprising Mr. Mian Muhammad, Additional Secretary (Cabinet), Mr.Shakirullah, Deputy Secretary(R-III), Mr.Jan Said Section Officer (O&M) and Mrs. Robin Haider Bukhari Section Officer (R-VI) was constituted to revise and update the Establishment Code. This new edition is outcome of endeavours of this Committee.

4. This Code comprises law, rules and administrative instructions with regard to terms and conditions of Government Servants. In the present edition, amendments in laws, rules and instructions upto January, 2011 have been incorporated.

5. Suggestions for improvement in the Establishment Code are welcomed and may be addressed to the Section Officer (O&M) E&AD.

(Rashid Ahmad)
Secretary Establishment

Dated 07-02-2011

CONSTITUTIONAL PROVISIONS REGARDING TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS.

Appointments to service of Pakistan and conditions of service.

Article 240 of the Constitution of Islamic Republic of Pakistan, 1973. Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined;-

(a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Majlis-e-Shoora (Parliament): and

(b) In the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation:- In this Article, "All-Pakistan Service" means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of Majlis-e-Shoora (Parliament).

Existing rules etc. to continue.

Article 241. Until the appropriate Legislature makes a law under Article 240, all rules and orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution, continue in force and may be amended from time to time by the Federal Government or as the case may be, the Provincial Government.

THE NWFP CIVIL SERVANTS ACT, 1973
(N.W.F.P. Act No. XVIII of 1973)

[1]An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province.

Preamble- ***WHEREAS*** it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows**:-**

1. Short title, application and commencement:- (1) This Act may be called the North West Frontier Province Civil Servants Act,1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

3) It shall come into force at once.

CHAPTER-I

PRELIMINARY

2. Definitions:- (1) In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method,

(b) "civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include-

(i) a person who is on deputation to the Province from the Federation or any other Province or other authority;

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act,1934 (Act XXV of 1934), or the Workman's Compensation Act,1923 (Act VIII of 1923);

(c) "Government" means the Government of the North-West Frontier Province.

[1] Published in the NWFP Government Gazette Extraordinary dated 12-11-1973 at pages 287 N-287V

(d) "Initial appointment" means appointment made otherwise than by promotion or transfer;

(e) "Pay" means the amount drawn monthly by a civil servant as pay, and includes special pay, personal pay and any other emoluments declared by the prescribed authority to be paid ;

(f) "Permanent post" means a post sanctioned without limit of times;

(g) "Prescribed" means prescribed by rules;

(h) "Province "means the North West Frontier Province;

(i) "rules" means rules made or deemed to have been made under this Act ;

(j) "Selection authority" means the North-West Frontier Province Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on the recommendations of, or in consultation with which any appointment or promotion, as may be prescribed, is made;

(k) "temporary post" means a post other than a permanent post.

(2) For the purpose of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

CHAPTER-II

TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS

3. Terms and Conditions:- The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

4. Tenure of office of civil servants:- Every civil servant shall hold office during the pleasure of the Governor.

5. Appointment:- Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.

6. Probation:- (1) An initial appointment to a service or post referred to in section 5, not being an ad hoc appointment, shall be on probation as may be prescribed.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.

(3) Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such service or post who,

before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise-

(a) if he was appointed to such service or post by initial recruitment, be discharged; or

(b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged:

Provided that in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

7. Confirmation :- (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post [2][ ] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing there-from.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. Seniority:- (1) For proper administration of a service, cadre or [3][post], the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or [4][post] to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or [5][post] as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or [6][cadre] whether serving the same department or office or not, as may be prescribed.

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[2] The words “or grade” omitted by NWFP Ordinance No. IV of 1985.
[3] The word “grade” substituted by NWFP Ordinance No. IV of 1985.
[4] The word “grade” substituted by NWFP Ordinance No. IV of 1985.
[5] The word “grade” substituted by NWFP Ordinance No. IV of 1985.
[6] The word “grade” substituted by NWFP Ordinance No. IV of 1985.

(3) Seniority on initial appointment to a service, [7][cadre] or post shall be determined as may be prescribed.

[8](4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post;

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post.

[9](5) The seniority lists prepared under sub-section(1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

9. Promotion:-(1) A civil servant possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a [10][higher] post for the time being reserved under the rule for departmental promotion in [11][ ] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness.

10. Posting and Transfer:- Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government**:**

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside his service or cadre , his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. Termination of service:- (1) The service of a civil servant may be terminated without notice-

(i) During the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one [service], cadre or post to another [service], cadre or post, his service shall not be so terminated so long as he

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7 The word “grade” substituted by NWFP Ordinance No. IV of 1985.
8 Sub section (4) of Sec-8 substituted by NWFP Ordinance No. IV of 1985.
9 Sub section (5) of Sec-8 added by NWFP Act No. I of 1989
10 The word “higher” inserted by NWFP Ordinance No. IV of 1985.
11 The words “the higher grade of” omitted by NWFP Ordinance No. IV of 1985.

holds a lien against his former post in such [12][service] or cadre, but he shall be reverted to his former [13][service], cadre or post, as the case may be;

(ii) On the expiry of the initial or extended period of his employment; or

(iii) if the appointment is made ad hoc terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) Where, on the abolition of a post or reduction in the number of posts in a cadre or grade, the services of a civil servant are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such cadre or grade.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2), the service of a civil servant in temporary employment or appointed ad hoc shall be liable to termination on fourteen days' notice or pay in lieu thereof.

[14]**11-A. Absorption of civil servants rendered surplus.** Notwithstanding anything contained in this Act, the rules made there-under, any agreement, contract or the terms and conditions of service, a civil servant who is rendered surplus as a result of re-organization or abolition of a department, office or abolition of a post in pursuance of any Government decision may be appointed to a post, carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfils other conditions applicable to that post:

Provided that, where no equivalent post is available, he may be offered a lower post in such manner and subject to such conditions as may be prescribed, and where such civil servant is appointed to a lower post, the pay being drawn by him in the higher post immediately preceding his appointment to a lower post shall remain protected.

12. Reversion to a lower [15]post:- A civil servant appointed to a higher post or [16][before the commencement of the North-West Frontier Province Civil Servants amendment) Ordinance, 1985 to a higher] grade ad hoc or on temporary or officiating basis shall be liable to reversion to his lower post [17][ ] without notice.

[18]**12A. Certain persons to be liable to removal or reversion:-** Notwithstanding anything contained in his terms and conditions of service, a civil servant appointed or promoted during the period from first day of January, 1972 to the fifth day of July,1977 may be removed from service or reverted to his lower post as the case may be, without notice, by the Governor or a person authorized by him in this behalf, on such date as the Governor or, as the case may be, the person so authorized may, in the public interest, direct.

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12 The word "grade" substituted by NWFP Ordinance No. IV of 1985.
13 The word "grade" substituted by NWFP Ordinance No. IV of 1985.
14 The new Section "11-A" inserted by NWFP Ordinance No.VI of 2001
15 The words "grade or service" substituted by NWFP Ordinance No. IV of 1985.
16 The words inserted by NWFP Ordinance No. IV of 1985.
17 The words "or grade" omitted by NWFP Ordinance No. IV of 1985
18 Section 12A inserted by NWFP Ordinance No. IX of 1978.

[19,20] **13. Retirement from service: -** (1) A civil servant shall retire from service-

(a) on such date after he has completed [21][twenty] years of service qualifying for pension or other retirement benefits as the competent authority may, in public interest, direct; or

(b) where no direction is given under clause (a), on the completion of sixtieth year of his age.

(2) No direction under clause (a) of sub-section (I) shall be made until the civil servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

Explanation: In this section, the expression "competent authority" means the appointing authority prescribed in rule 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

14. Employment after retirement:- (1) A retired civil servant shall not ordinarily be re-employed under Government, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Governor, such re-employment may be ordered with the approval of the Governor.

(2) Subject to the provision of sub-section(1) of section 3 of the Ex-Government Servants (Employment with Foreign Governments) (Prohibition) Act,1966 (Act XII of 1966), a civil servant may, during leave preparatory to retirement, or after retirement from Government service, seek any private employment:

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement or within two years of the date of his retirement, he shall obtain the prior approval of the prescribed authority.

15. Conduct:- The conduct of a civil servant shall be regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

16. Disciplinary action:- A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

17. Pay:- A civil servant appointed to a post [22][ ]shall be entitled, in accordance with the rules, to the pay sanctioned for such post [23][ ].

Provided that, when the appointment is made on a current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

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19 Section 13 substituted vide NWFP Civil Servants (Amendment) Act 1991(Act III of 1991)

20 Section 13 again substituted vide NWFP Civil Servants (Amendment) Ordinance 2000 (NWFP Ordinance No. VIII of 2000).

21 The word "twenty-five" years substituted with the words "twenty" in Section 13 vide NWFP Civil Servants (second amendments) Ordinance 2001.

22 The words "or grade" omitted by NWFP Ordinance No. IV of 1985.

23 The words "or grade" omitted by NWFP Ordinance No. IV of 1985.

Provided further that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

18. Leave:- A civil servant shall be allowed leave in accordance with the leave rules applicable to him; provided that the grant of leave will depend on the exigencies of service and be at the discretion of the competent authority.

[24]**19. Pension and gratuity**.—(1) On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Service Pension Rules:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant, except for the purpose of pension or gratuity. Such a civil servant shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by Government to his account in the said Fund, in the prescribed manner:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

[25]Provided further that where a civil servant appointed to a pensionable post on regular basis before the 1st day of July, 2001, is appointed to another post, after the 1st day of July, 2001 without any service break, he shall be given an option either to retain the benefit of pension and gratuity as allowed to him under his previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to him under his new appointment.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servant, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal:

Provided that a civil servant referred to in sub-section (2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be

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[24] Section-19 substituted by the NWFP Civil Servants (Amendment) Act 2005 (NWFP Act No.IX of 2005) published in the NWFP Government Gazette Extraordinary dated 23rd July 2005.

[25] Proviso inserted vide NWFP Civil Servants (Amendment) Act, 2009, (NWFP, Act No.VIII of 2009) published in the NWFP Government Gazette Extraordinary dated 28th March, 2009.

allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.

20. **Provident Fund:-** (1) Before the expiry of the third month of every financial year, the Accounts Officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscriptions to including the interest accruing thereon, if any, and withdrawals or advances from his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the Accounts Officer or other officer required to maintain such account, such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

21. Benevolent Fund and Group Insurance:- All civil servants and their families shall be entitled to the benefits admissible under the West Pakistan Government Employees Welfare Fund Ordinance,1969 (W.P Ord.I of 1969), or the North-West Frontier Province Government Servants Benevolent Fund Ordinance,1972 (NWFP Ordinance VII of 1972), and the rules made thereunder.

22. Right of Appeal or Representation:- (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

CHAPTER-III

M I S C E L L A N E O U S

23. Saving:- Nothing in this Act or in any rule shall be construed to limit or abridge the power of the Governor to deal with the case of any civil servant in such manner as may appear to him to be just and equitable:

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favourable to him than that provided by this Act or such rules.

[26]**23-A Indemnity.-** No suit, prosecution or other legal proceedings shall lie against a civil servant for anything done or intended to be done in good faith in his official capacity under this Act or the rules, instructions or direction made or issued there-under.

[27]**23-B. Jurisdiction barred**.—Save as provided under this Act and the Service Tribunal Act, 1974 (NWFP Act No.1 of 1974), or the rules made thereunder, no order made or proceedings taken under this Act, or the rules made thereunder by the Governor or any officer authorized by him shall be called in question in any court and no injunction shall be granted by any court in respect of any decision made, or proceedings taken in pursuance of any power conferred by or under this Act or the rules made thereunder.

24. Removal of difficulties:- If any difficulty arises in giving effect to any of the provisions of this Act, the Governor may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the coming into force of this Act.

25. Appointment of persons on contract, etc:- The Governor or any person authorized by the Governor in that behalf may, on such terms and conditions as he may specify in each case, appoint persons on contract basis, or on work-charged basis, or who are paid out of contingencies:

Provided that all such employees who were working in any such capacity immediately before the commencement of this Act shall continue to be so employed on the same terms and conditions on which they were appointed.

[28]**26. Rules:-** (1) The Governor or any person authorized by the Governor in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.

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[26] Section-23A inserted vide NWFP Ordinance No. XIV of 2002.

[27] Section-23B inserted vide NWFP Ordinance No. XIV of 2002.

[28] The Governor NWFP has authorized the Chief Minister NWFP to make rules vide Notification No. SOR-I (S&GAD)1-206/74/Vol-V, dated 18-04-1989 read as "In exercise of the powers conferred by sub-Section (1) of Section 26 of the NWFP Civil Servants Act 1973 (NWFP Act No. XVIII of 1973), the Governor of the NWFP is pleased to authorize the Chief Minister NWFP to make rules for carrying out the purpose of the said Act".

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

27. Repeal:- The North-West Frontier Province Civil servants Ordinance, 1973 (NWFP Ordinance No.VI of 1973), is hereby repealed.

Guidelines for review of cases of civil servants under Section 13(1)(a) of the NWFP Civil Servants Act, 1973.

I am directed to refer to the subject noted above and to say that Section 13 of the NWFP Civil Servants Act, 1973 as amended vide Civil Servants (Amendment) Ordinance, 2000 lays down as under:-

(1) A civil servant shall retire from service.
- (a) On such date after he has completed twenty-five years of service for pension or retirement benefits as the competent authority may, in public interest, direct; or
- (b) Where no direction is given under clause (a), on the completion of Sixtieth year of his age.

(2) No direction under clause (a) of sub-section (1) shall be made until the civil servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

Explanation: In this section, "competent authority" means the appointing authority prescribed in rule 4 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989.

2. The guidelines approved by the competent authority for review of cases under Section 13(1)(a) of the NWFP Civil Servants Act, 1973 are given in the succeeding paragraphs.

3. When it comes to the notice of the competent authority that a civil servant has, prima-facie, ceased to be efficient and that action is warranted against him under Section 13(1)(a) of the NWFP Civil Servants Act, 1973, it shall cause the case to be referred to a Review Committee stating the facts of the case alongwith supporting documentary evidence, if any, service record of the person in the form attached as Annexure-I, and such other record as may be considered relevant to a case for the purpose of making a recommendation about his suitability for further retention in service.

4. The Review Committee for officer of BS-17 and above may comprise the following:-

(i)	Chief Secretary	Chairman (By name)
(ii)	Addl. Chief Secretary	Member(Ex-officio)
(iii)	Senior Member, Board of Revenue	Member(Ex-officio)
(iv)	Secretary S&GAD	Member(Ex-officio)
(v)	Administrative Secretary of the Department concerned.	Member(Ex-officio)
(vi)	Additional Secretary S&GAD	Secretary

5. The Secretary of the concerned Administrative Department has been authorized to constitute Review Committees for officials of BS-16 and below subject to the

proviso that each Review Committee should include representative of S&GAD as a member of the Committee.

6. The Review Committees should examine the cases referred to them, and the Committees may recommend retirement in the following cases:-

(a) Where two or more penalties under the Government Servants (Efficiency & Discipline) Rules, 1973 have been imposed on a civil servant or any other law for the time being in force.

(b) Where over all grading of the ACRs is Average, and / or where reliability, output of work and behavior with the public were recorded in the ACRs(duly conveyed to the concerned civil servant and his representation against it finalized, as per rules).

(c) Where a civil servant is twice recommenced for supersession by Selection Board/DPC and the recommendation of the Selection Board/DPC is approved by the competent authority.

(d) Where other specific and cogent grounds, including the following, may warrant retirement of a civil servant:-
    (i) Persistent reputation of being corrupt.
    (ii) Possessing pecuniary resources and/or property etc.
    (iii) Frequent unauthorized absence from duty.

7. Where the Review Committee recommends retirement of a civil servant, specific reasons for doing so should be given. The recommendation of the Committee should be submitted for the approval of the competent authority. If the competent authority agrees with the recommendation of the Committee, a show cause notice shall be issued to the civil servant under sub-Section (2) of Section 13 of the Civil Servants Act, 1973. After receipt of reply to the show cause notice within 14 days by the civil servant, the competent authority shall take the final decision.

ANNEXURE-I

PROFORMA FOR REVIEW OF SERVICE RECORD OF CIVIL SERVANTS, ON COMPLETION OF 25 YEARS QUALIFYING SERVICE FOR PENSION.

(1) Name
(2) Date of birth
(3) Educational qualification
(4) Name of the post/department
(5) Name of the cadre/group or service
(6) Date of joining Government service.
(7) Details of pre-service and in-service training
(8) Date of promotion to the present post
(9) Date of completing of 25 years service qualifying for pension.
(10) Details of service record.

(a) Synopsis of ACR

Year	Overall assessment	Assessment made in the ACR about		
		Quantity and output of work	Integrity	Fitness for promotion
		(a)	(b)	(c)
1	2		3	

(b) Pen picture recorded in the ACRs during last five years.
(c) Particulars of penalties imposed under the Govt. Servants (Efficiency & Discipline) Rules, 1973:-

Name of Penalty	Grounds of Penalty	No. and date of Penalty imposing order

(Authority; letter No.SOR-I(S&GAD)4-13/87, Dated 30.11.2000)

Statutory provision regarding Appointment.

Section 5 of Civil Servants Act, 1973 - Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

THE NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989.

PART-I

GENERAL

1. **Short title and commencement: -** (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. **Definitions:-**(1) In these rules, unless the context otherwise requires**:-**

(a) "Appointing Authority" in relation to a post, means the persons authorized under rule 4 to make appointment to that post;

(b) "Basic Pay Scale" means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;

(c) "Commission" means the North West Frontier Province Public Service Commission;

[29] (d) "Departmental Promotion Committee" means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government, which do not fall within the purview of the Provincial Selection Board;

[30] (dd)"Departmental Selection Board" means a Board constituted for the purpose of making selection for initial recruitment /appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission:

Provided that more than one such committees may be constituted for civil servants holding different scales of pay".

(e) "Departmental Selection Committee" means a committee constituted for the purpose of making selection for initial appointment to posts under a department, or office of Government [in Basic Pay Scale 17 and below not falling within the purview of the Commission];

(f) "Post" means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades ; and

[31](g) “Provincial Selection Board" means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect

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[29] Substituted by Clause (d) of sub-rule (1) of Rule 2 vide Notification No. SOR-I (S&GAD) 4-1/80 (Vol-II) dated 14-01-92.

[30] Clause (dd) added by Notification No. SOR-III (S&GAD) 2-7/86, dated 8-12-1994

[31] Clause (g) substituted by Notification No. SOR-I(S&GAD) 4-1/80/II, dated 14-01-1992.

whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time.

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the North-West Frontier Province Civil Servants Act,1973(N.W.F.P act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. **Method of Appointment:-** (1) Appointment to posts shall be made by any of the following methods, namely**:-**

(a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and

(b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. **Appointing Authority:-** The authorities competent to make appointment to posts in various basic pay scales shall be as follows**:-**

S.No.		Posts	Appointing Authority
[32]1.	(a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; (i) Former Provincial Civil Service (Executive Branch); (ii) Former Provincial Civil Service (Judicial Branch); and (iii)Provincial Civil Secretariat Service.	Chief Minister
	(b)	Posts in Basic Pay Scale 17 other than those covered by(a) above.	Chief Secretary
2.		Posts in Basic Pay Scale 16.	(a) In the case of Secretariat of the Government of NWFP, the Chief Secretary. (b) In case of High Court, the Chief Justice; and (c) In the case of Attached Department:

[32] Substituted by Notification No. SOR-I(S&GAD)4-1/75/Vol-I, dated 22-08-1991.

(i) the Head of Attached Department concerned; and

(ii) In any other case the Secretary of the Department concerned.

3. Posts in Basic Pay Scales 3 to 15.

(a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief Justice; and

(b) In other cases

(i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or

(ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department/ Office, as the case may be.

4. Posts in Basic Pay Scale 1 and 2. Deputy Secretary incharge of Administration or office, as the case may be.

5. [33]**Departmental Promotion & Selection Committee/Board** - (1) In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee [34](or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

(2) Each such Committee (or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

[35]6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority.

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[33] The heading of rule 5 substituted by Notification No. SOR-I(S&GAD)2-7/86, dated 8-12-1994.

[34] The words inserted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

[35] Rule-6 substituted by Notification No. SOR-III(S&GAD)2-7/86, dated 8-12-1994

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** [36](1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee".

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exist.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time.

8. **Inter-Provincial Transfer:-**(1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government may, in deserving cases, be transferred to equivalent posts under these rules**:-**

Provided that**:-**

(i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
(ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
(iii) the person concerned holds appointment to the post in his parent Department on regular basis;
(iv) the person concerned is a bona fide resident of the North-West Frontier Province.
(v) a vacancy exists to accommodate the request for such a transfer; and:
(vi) Provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purpose of determining his seniority vis-à-vis other members borne on the cadre.

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36 Sub rule (1) substituted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 14-01-1992.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request for transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. **Appointment on Acting Charge or current Charge Basis**. (1) Where the appointing authority considered it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

[37]Provided that no such appointment shall be made, if the prescribed length of service is short by more than [38][three years].

(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III

INITIAL APPOINTMENT

10. **Appointment by Initial Recruitment :-**(1) Initial appointment to posts [39][in various basic pay scales] shall be made-

(a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

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[37] Full stop at the end of Rule 9 (1) replaced with colon and proviso added by Notification No. SOR-I (S&GAD)4-1/80/Vol-II, dated 20-10-1993.

[38] The words one year substituted by Notification No. SOR-I(S&GAD)4-1/80/III, dated 14.3.96.

[39] The words in basic pay scale-16 to 21 substituted by Notification No. SOR-I(S&GAD)1-117/91 (C), dated 12-10-1993.

(b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

[40](2) Initial recruitment to posts which do not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers.

[41]Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister House Peshawar, Frontier House Islamabad, Frontier Rest Houses Bannu, Swat and Abbottabad, Frontier House Nathia Galli and Shahi Mehman Khana, Peshawar and any other House to be established by the Government:

[42]Provided further that the appointment in Basic Pay Scale-1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, [43][or, where in a District, the office of the Employment Exchange does not exist, after advertising the posts in the leading newspapers] [44][ ]

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

(i) [45]where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being inforce, age shall be reckoned on 1st January of the year in which the examination is proposed to be held;

(ii) in other cases as on the last date fixed for submission of applications for appointment.

[46](4) Where a civil servant dies during service, then notwithstanding the procedure provided for in sub-rule (2), the appointing authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government service, the widow of such civil servant, to a post in any of the Basic Pay Scales 1 to 15:

Provided that the child or the widow, as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows of the deceased civil servant, preference shall be given to the elder widow:

Provided also that the appointment under this sub-rule is subject to availability of a vacancy and if more than one vacancies in different pay scales is available at a time, and the child or the widow, as the case may be, possesses the qualifications making him or her

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40 Sub rule (2) of Rule-10 substituted by Notification No. SOR-I(S&GAD) 1-117/91 (C), dated 12-10-1993.

41 Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 03-07-2003.

42 Proviso added vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 16-03-2004

43 Sentence added in the Proviso vide Notification No. SOR-VI(E&AD)1-3/2003 (VI) dated 23-01-2006.

44 2nd Proviso in sub- rule (2) of Rule 10 was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 dated 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.

45 Clause (i) substituted vide Notification No. SOR-I(S&GAD)4-1/80, dated 17-5-1989.

46 Sub rule (4) substituted vide Notification No. SOR-VI (E&AD)1-3/03/II, dated 05-09-2006.

eligible for appointment in more than one post, he/she shall ordinarily be appointed to the post carrying higher pay scale.

[47](5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I---For the purpose of reservation under this sub-rule "disability" does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.

Explanation-II---Ten per cent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

[48](6) Notwithstanding anything contained in any rule for the time being in force, five per cent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Battgram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from Ist February, 2006.

[49](7) Notwithstanding anything contained in any rule for the time being in force, 0.5 percent of all the posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to—

(i) the percentage of vacancies reserved for recruitment on merit;
(ii) short term vacancies likely to last for less than one year; and
(iii) isolated posts in which vacancies occur only occasionally.

11. **Eligibility.** (1) A candidate for appointment shall be a citizen of Pakistan and bona fide resident of the North-West Frontier Province.

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

[50][(2)]

(3) No person, not already in Government service, shall be appointed to a post unless he produces a certificate of character from the principal, academic officer of the academic institution last attended and also certificates of character from two responsible persons, not being his relatives, who are well acquainted with his character and antecedents.

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

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47 Sub rule (5) substituted vide Notification No. SOR-VI (E&AD)1-10/03 (VI), dated 04-12-2007.
48 Sub rule (6) inserted vide Notification No. SOR-VI(E&AD)1-3/03 (VI), dated 01-02-2006
49 Sub rule (7) added vide Notification No. SOR-VI(E&AD)1-3/08, dated 06-01-2009
50 Sub rule (2) of rule-11 deleted vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-06-2008

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. **Zonal and Divisional representation: -** (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time:

[51]Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bona fide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

AD HOC APPOINTMENT

13. **Requisition to Commission:-**When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on ad hoc basis as provided in rule 14, within two months of the filling of the post.

14. **Ad hoc Appointment:-**(1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on ad hoc basis for a period not exceeding [52][one year] by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding [53][one year], may be filled in by appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

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51 Proviso to rule-12 added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

52 The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

53 The words six months replaced with the words one year vide Notification No. SOR-VI(E&AD)1-3/08, dated 17-01-2009.

PART-V

PROBATION AND CONFIRMATION

[54]**15**. **Probation.** ----- (1) Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.

16. **Confirmation:-**After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section (3) of Section 6 of the North West Frontier Province Civil Servants Act, 1973.

PART-VI

S E N I O R I T Y

17. **Seniority :-**(1) the seniority inter se of civil servants [55](appointed to a service, cadre or post) shall be determined**:-**

(a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission [56][or as the case may be, the Departmental Selection Committee;] provided that persons selected for appointment to post in an earlier selection shall rank senior to the persons selected in a later selection; and

(b) in the case of civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

Explanation-I:- If a junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher

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54 Rule-15 substituted vide Notification No. SOR-VI/E&AD/1-3/2009/Vol-VIII dated 16-2-2010.

55 Substituted for the words appointment to a post in the same basic pay scale in a cadre by Notification No. SOR-I(S&GAD)4-1/80, dated 17-05-1989.

56 The words inserted by Notification No. SOR-I(S&GAD)4-1/80/II, dated 04-02-1996.

post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted the person promoted first shall rank senior to the person promoted subsequently; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incomplete record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

[57](3) In the event of merger/restructuring of the Departments, Attached Departments or Subordinate Offices, the inter se seniority of civil servants affected by the merger/restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post.

[58](4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is the same, the civil servant older in age, shall be treated senior.

18. General Rules: - In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. Repeal:- The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

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57 Sub-rule (3) of Rule 17 added vide Notification No. SOR-I(E&AD)4-1/80/IV, dated 28-5-2002.

58 Sub-rule (4) of Rule 17 added vide Notification No.SOR-VI (E&AD) 1-3/2008 dated 19th November, 2009.

Appointment by transfer.

I am directed to say that rule 7 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, provides that appointment by transfer to posts should be made:-

(1) to posts in BPS-2 to 16 on the recommendations of the appropriate Departmental Promotion Committee;

(2) to posts in BPS-17 and above on the recommendations of the Provincial Selection Board; and

(3) from amongst the persons possessing qualifications and other conditions prescribed for the posts and holding appointment on regular basis in the same basic pay scale in which the posts to be filled exist.

It has been brought to notice that in some of the departments, appointment by transfer is also made in cases where no provision for appointment by transfer exists in the relevant service/recruitment rules.

I am accordingly directed to clarify that the above provisions regarding appointment by transfer are applicable in only those cases where the appointment by transfer is specifically provided for in the relevant service/recruitment rules or in the method of appointment, qualification etc laid down for each post under sub-rule (2) of rule 3 of the aforesaid rules.

(Authority; No.SORI(S&GAD)4-1/80, dated 13th May, 1989)

THE NORTH-WEST FRONTIER PROVINCE INITIAL APPOINTMENT TO CIVIL POSTS (RELAXATION OF UPPER AGE LIMIT) RULES, 2008

PART – I -

GENERAL

1. (1) These rules may be called the Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008.

(2) These shall come into force with immediate effect.

*2(1) Nothing in these rules shall apply to the appointment in BS-17 and the posts of Civil Judge-cum-Judicial Magistrate/Illaqa Qazi, BPS-18 to be filled through the competitive examination of the Public Service Commission, in which case two years' optimum relaxation shall be allowed to;

(a) Government servants with a minimum of 2 years' continuous service;

(b) Disabled persons; and

(c) Candidates from backward areas.

*2(2) For appointment to the post of Civil Judge-Cum-Judicial Magistrate/Illaqa Qazi, the period which a Barrister or an Advocate of the High Court and /or the Courts subordinate thereto or a Pleader has practiced in the Bar, shall be excluded for the purpose of upper age limit subject to a maximum period of two years from his/her age.

PART – II -

GENERAL RELAXATION

3. Maximum age limit as prescribed in the recruitment rules shall be relaxed in respect of the candidates mentioned in column 2 to the extent mentioned against each in column No.3 of the Table below:-

Sl. No.	**Category of candidates**	**Age relaxation admissible**
1	2	3
i.	Government Servants who have completed 2 years' continuous service	Upto ten years automatic relaxation
ii.	Candidates belonging to backward areas as specified in the Appendix attached herewith.	Three years automatic relaxation
iii.	General candidates	Upto two years by the appointing authority and exceeding two years upto five years by the Establishment Department

*Added vide Notification No. SOE-III/E&AD/2-1/2007, dated 03rd March, 2008

iv.	Widow or son or daughter of a deceased civil servant who died during service and **son /brother in case of a Shaheed of Police Department; and	Discretion of the appointing authority
v.	Disabled persons/**divorced women/ widow.	Ten years automatic relaxation
***vi.	(i)(a) Employees or ex-employees of development projects of the Government of Khyber Pakhtunkhwa; and (b) Employees or ex-employees of development projects of the Federal Government under the administrative control of the Government of Khyber Pakhtunkhwa.	Equal to the period served in the projects, subject to a maximum limit of ten years.

"Provided that the age relaxation at serial No.vi above shall not be availed in conjunction with any other provisions of these rules".

(ii) In case of divorced woman or widow, the following certificates shall be produced by the applicant at the time of applying for age relaxation;

(a) In case of widow, death certificate of husband.

(b) In case of divorced woman, divorce certificate from the District Coordination Officer of the District concerned.

(c) Certificate from the District Coordination Officer of the District concerned to the fact that the applicant whether divorced or widow has not remarried at the time of submitting application.

4. A candidate shall only be allowed relaxation in age in one of the categories specified in rule 3;

Provided that the candidates from backward areas, in addition to automatic relaxation of three years under category (ii) specified in rule 3, shall be entitled to one of the relaxations available to Government servants, general or disabled candidates, whichever is relevant and applicable to them.

5. The age relaxation under category (iii) specified in rule 3, shall be subject to: (a) full justification in support of the proposal; and (b) a certificate to the effect that no eligible candidates within the prescribed age limits are/were available. The certificate shall be provided by the concerned Departments.

**Amended vide Notification No.SOE-III(E&AD)2-1/2007, dated 09th December, 2010

***Added vide Notification No. No.SOE-III(E&AD)2-1/2007, dated 29th January, 2011

6. Age relaxation in respect of overage candidates shall be sought prior to their appointment.

7. For the purposes of these rules, age of a candidate shall be calculated from the closing date of submission of applications for a particular post.

8. The cases of age relaxations, beyond the competence of Administrative Departments, shall be sent to the Establishment Department through the Administrative Department concerned.

9. All existing instructions, relating to age relaxation, issued from time to time shall stand superseded.

APPENDIX

[See Rule 3(ii)]

(i) Khyber Agency
(ii) Kurram Agency
(iii) Orakzai Agency
(iv) Mohmand Agency
(v) North Waziristan Agency.
(vi) South Waziristan Agency.
(vii) Malakand Agency including protected areas (Swat Ranizai and Sam-Ranizai) and Bajaur.
(viii) Tribal Areas attached to Peshawar, Kohat and Hazara Division
(ix) Tribal Areas attached to D.I. Khan and Bannu Districts.
(x) Shirani Area.
(xi) Merged Areas of Hazara and Mardan Division and upper Tanawal.
(xii) Swat District
(xiii) Upper Dir District.
(xiv) Lower Dir District.
(xv) Chitral District.
(xvi) Buner District.
(xvii) Kala Dhaka Area.
(xviii) Kohistan District.
(xix) Shangla District.
(xx) Gadoon Area in Swabi District.
(xxi) Backward areas of Mansehra and District Battgram.
(xxii) Backward areas of Haripur District, i.e. Kalanjar Field Kanungo Circle of Tehsil Haripur and Amazai Field Kanungo Circle of Tehsil Ghazi.

(Authority No. SOE-III(E&AD)2-1/2007, Dated 1st March, 2008)

VIOLATION OF AGE-LIMIT POLICY.

I am directed to refer to the subject noted above and to state that according to instructions contained in the Establishment Department Notification No.SORI(S&GAD)4-1/80-Vol-III, dated 12-6-1999 following amendment were required to be carried out in the relevant Service rules by all the Departments:-

> "For the existing maximum age limit of "25 years" and "28 years", wherever occurring, the words and figures "30 years" and 32 years" shall be respectively substituted".

2. Complaints are being received from the various quarters that the above instructions have not been complied with by the departments so far. Maximum age limits prescribed in Service Rules of various departments is still being followed, as a result of which applicants are not availing benefit.

3. I am directed to request that instructions on the aforementioned statutory provisions regarding maximum age limit may kindly be complied with and report may be furnished for perusal of the Chief Secretary NWFP at the earliest.

(Authority; letter NO. SOR.VI (E&AD)1-10/2005-Vol:IV Dated 24th July 2006).

[59]Recruitment Policy for the Provincial services.

(a) Recruitment to posts in BPS-16 and above as well as the posts of Assistant Sub-Inspectors of Police, Naib Tehsildars, Zilladars and Sub-Engineers will continue to be made through the NWFP Public Service Commission. However, the Commission may make efforts to finalize the recruitment within six months of the receipt of the requisition duly completed from the Administrative Department.

(b) Recruitment to posts in the various Government Departments as indicated below will also henceforth be made by the NWFP Public Service Commission**:-**

(i) **All Departments including Board of Revenue, NWFP-**

(1) Senior Scale Stenographer(B-15)
(2) Data Processing Supervisor(B-14)
(3) Junior Scale Stenographer(B-12)
(4) Assistant (B-11)[60]
(5) Draftsman(B-11)

(ii) **Board of Revenue-**

(1) Sub-Registrar(B-14)
(2) Excise and Taxation Inspector(B-11)

(iii) **Home & Tribal Affairs Department** -

(a) Police Department;

(1) Prosecuting Sub-Inspector (B-14)

(b) Inspectorate of Prisons:
(1) Assistant Jail Superintendent (B-11)

(c) Reclamation and Probation Department;

(1) Parole/Probation Officer(B-11)

(iv) Industries, Commerce, Mineral Development, Labour and Transport Department-

(a) Directorate of Industries:

(1) Assistant Industrial Development Officer/ Assistant Price Stabilization Officer(B-11)
(2) Royalty Inspector(B-11)
(3) Surveyor(B-11)

(b) Directorate of Manpower and Training:

(1) Instructor T.T.C(B-14)

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[59] Issued vide .S&GAD letter No.SOR.I (S&GAD)1-117/91(C), dated 12.10.1993.
[60] The post of Assistant has now been placed in BS-14 universally

(v) Cooperative Societies:

(1) Inspector(B-11)

(vi) Communication and Works Department-

(1) Assistant Architectural Draftsman(B-14)

(2) Senior Draftsman(B-13)

(vii) Public Health Engineering Department-

(1) Motivation Officer(B-15)

(2) Assistant Motivation Officer(B-14)

(3) Lady Health Educator (B-12)

(viii) Electric Inspectorate:-

(1) Sub-Inspector(B-11)

(ix) Food Department-

(1) Assistant Food Controller(B-8)
(2) Food Grain Inspector(B-6)

(x) Directorate of Archives and Libraries-

(1) Preservation Assistant (B-11)
(2) Cataloguer / Classifier (B-11)

(c) Initial recruitment to posts in BPS-15 and below other than the posts in the purview of the Public Service Commission, in all the departments shall continue to be made in accordance with Rule 10,11 and 12 (Part-III) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules,1989, the criteria as laid down in S&GAD letter No.SORI(S&GAD)4-1/75,dated 11.2.1987 and the zonal allocation formula contained in S&GAD Notification NO.SOS.III(S&GAD)3-39/70, dated 2.10.1973 as amended from time to time.

(d) No ad hoc appointment against any post in any pay scale shall be made.

N.B: [ad hoc appointment is now allowed under the NWFP Public Service Commission Ordinance 1978 and the NWFP (Appointment, Promotion & Transfer) Rules 1989 for a period of one year]

(e) [61]**[…………….]**

61. Sub para-e and other entries under it relating to age relaxation were superseded by the NWFP Initial Appointment to Civil Posts (Relaxation of upper Age Limit) Rules, 2008.

(f) The Regional/Zonal quota if not filled will be carried forward till suitable candidates are available from the Region/Zone concerned. No "Substitute" recruitment shall be made. Existing backlog, if any, in respect of any zone will not be carried forward and the Commission shall take a fresh start in respect of all posts under its purview. However, this condition will not be applicable in respect of posts which have already been advertised by the NWFP Public Service Commission.

[62]In case female candidates with prescribed qualification do not become available in Zone-I after advertising at least three times, such vacancy/ vacancies shall be advertised fourth time for Merit Quota.

(g) The vacancies in all the Departments shall be advertised in leading newspapers on [63](Sunday).The advertisement in electronic media should be to the extent of drawing attention of all concerned to the relevant newspapers in which the vacancies are advertised.

(h) Initial Recruitment to all the vacant posts shall be made on regular known periodic intervals in February and August each year after proper advertisement through electronic and national/regional media. After advertisement, a minimum period of 30 days should be allowed for receipt of applications. [64]**[ ]**

(i) (Deleted).

[65](j) i) 2% quota for disabled persons already fixed shall stand and should be enforced strictly.

ii) 10% quota has also been fixed for female candidates in all the Provincial services which are filled up through initial recruitment in addition to their participation in the open merit. However, it shall not be applicable to cadres exclusively reserved for females. The vacancies reserved for women for which qualified women candidates are not available shall be carried forward and filled by women.

iii) The above orders shall also apply to initial appointments in all autonomous/semi-autonomous bodies/ corporations etc which are administratively controlled by the Provincial Government.

iv) The Commission shall revise the Requisition Form for all such posts for specifying the women's quota in the available vacancies and the Administrative Department shall intimate the quota for the women in the Requisition Form accordingly.

v) The above reservation shall not apply to:-

- *the percentage of vacancies reserved for recruitment on the basis of merit;*
- *Short term vacancies likely to last for less than six months; and*
- *Isolated posts in which vacancies occur only occasionally;*

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62 Entry added at the end of sub-para (f) vide No SOR-I(S&GAD)1-117/91 (C), 23-05-2000.

63 The words "Friday" substituted in para(g) by Notification No. SOR-I(S&GAD)1-117/91 (C), 22-11-97

64 Last sentence of sub-para (h) i.e. "A waiting list of eligible candidates shall be maintained for a period of six months" was deleted vide circular No. SOR-VI (E&AD)1-10/05 (IV), dated 31-12-2008.
Sub-Para-J substituted vide circular No. SOR-VI (E&AD)1-10/05 (IV), dated 25-07-2007.

65 The one percent substituted by Notification No.SOR.I(S&GAD)4-1/80, Vol.III dated 19.2.1999

[66](JJ) 0.5 per cent quota has been fixed for candidates belonging to minorities in all the Provincial services which are filled in through initial recruitment in addition to their participation in the open merit. However, this reservation shall not apply to:-

- *the percentage of vacancies reserved for recruitment on the basis of merit;*
- *Short term vacancies likely to last for less than [67][six months]; and*
- *Isolated posts in which vacancies occur only occasionally."*

(k) For initial appointment to posts in BPS-17 and below in the Autonomous Bodies/Corporations, the zonal allocation formula applicable for Provincial Services may be adopted. The method of recruitment shall also conform to sub-para (c) above.

(l) The Provincial Government have already agreed that recruitment to the post of PTC in Education Department in various districts shall be made on constituency-wise basis. For this purpose, the existing districts have been divided into various zones. Each zone shall correspond to the area of constituency of the Provincial Assembly. However, recruitment to the posts shall, in each case, be 60% on merit in open competition on district basis and 40% on constituency basis.

[68]The competent authority has decided that henceforth all the Government Departments/Offices shall ensure that requisitions are sent to the NWFP Public Service Commission complete in all respects and should reflect not only all the existing vacant posts but also posts likely to become vacant during the next eighteen months on account of retirement etc falling to the initial recruitment quota under the rules.

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66 Sub- Para-JJ added vide circular No. SOR-VI (E&AD)1-10/(Min)05 (IV), dated 18-11-2008.

67 Period of six months replaced with "one year" in the NWFP (Appointment, Promotion & Transfer) Rules 1989 vide Notification No. SOR-VI(E&AD)1-3/2008, dated 6th January, 2009.

68 Instructions issued vide circular letter No. SOR-VI (E&AD)1-10/08 (X), dated 07-10-2008.

Zonal Allocation in Initial Recruitment

In exercise of the powers conferred by Article 241 of the Constitution of the Islamic Republic of Pakistan and in supersession of this Department's Notification No.SOS.III (S&GAD)3-39/70 dated 25th March,1971 the Governor of the North-West Frontier Province is pleased to direct that notwithstanding anything to the contrary contained in any service/ Recruitment Rules under the rule making authority of the Governor of the North-West Frontier Province, vacancies to be filled by initial recruitment and by promotion shall be filled in the following manner:-

1. In the case of initial recruitment:-

[69](a) there shall be block of 24 vacancies in the former Gazetted Service or post (including un-classified services or Posts) or equivalent status, which shall be filled in the following manner:-

(i) Six such vacancies shall form merit quota and shall be filled on merit from among the candidates domiciled in any part of the North-West Frontier Province including the Federally Administered Tribal Areas attached thereto; and

(ii) the remaining 18 vacancies shall be reserved for bona fide residents of the zones specified in column 2 of the Appendix to this Notification in accordance with the number of posts shown against each zone in column 4 thereof;"

(b) there shall be block of 18 vacancies in non-Gazetted Services or posts in the Secretariat Department and the Headquarters Offices of the Attached Departments which shall be reserved for bona fide residents of the zones specified in column 2 of the Appendix to this Notification in accordance with the number of posts shown against each zone in column 4 thereof;

Provided that where a zone has been further sub-divided into parts specified in column 3 of the said Appendix, the vacancies allocated to that zone shall be made available to each part of the zone in equal shares or by rotation, as the case may be;

[70]Provided further that in the case of vacancy allocated to a zone or, as the case may be, a part of that zone if no suitable candidate from that zone or part is available, the vacancy shall be filled from any other zone or part of that zone, as the case may be, and the vacancy of the latter zone or part of that zone, as the case may be when available shall be filled from former zone, or as the case may be a part of that zone, where no suitable candidate was available.

2. In the case of vacancies to be filled by promotion in the manner specified in the Service/Recruitment Rules of the Service concerned;

Note: See NWFP Civil Service (Sectt Group) Rules, 1997 & NWFP Civil Service (Executive Group) Rules, 1997 issued by Notification No. SOR-IV (S&GAD)/3-7/95-Vol.II, dated 26.6.97.

[69] Sub.Para (a) of Para 1 substituted by circular letter No.SORI(S&GAD)3-39/70, dated 3.2.90.
Proviso substituted by Notification No.SOSIII(S&GAD)3-39/70,dated 21.1.74

[70] See also NWFP Civil Service (Sectt Group) rules, 1997 & NWFP Civil Service (Executive Group) rules,1997 issued through Notification No.SORIV(S&GAD)3-7/95 Vol.II, dated 26.6.97.

Provided that if in the opinion of the appointing authority no suitable officer/official is available for promotion to any post in the Provincial Secretariat from among the officers/officials constituting the Secretariat Services the vacancies, not exceeding ten per cent of the total cadre strength of the Service concerned, may be filled by transfer or promotion of suitable officers/officials serving in any Department of the Government of the North-West Frontier Province.

(Authority: NWFP,S&GAD Notification No.SOS.III(S&GAD)3-39/70 Dated 2.10.1973.)

[71]APPENDIX

Sl. No	**Zone**	**Parts of Zones**	**No. of posts for each Zone**
1	**2**	**3**	**4**
1	Agencies of Bajaur, Mohmand, Khyber, Orakzai, North Waziristan, South Waziristan, Kurram, Frontier Regions attached to the districts of Peshawar, Kohat, Bannu and D.I.Khan.	Areas as detailed in column 2 against Serial No.1.	4
2	Peshawar,Nowshera,Charsadda, Mardan and Swabi District.	Areas as detailed in column 2 against Serial No.2.	4
[72]3	District of Swat, Upper Dir, Lower Dir, Chitral, Buner, Shangla, Kohistan, Malakand Protected Areas (Swat Ranizai and Sam-Ranizai), backward areas of Haripur, Mansehra and Swabi District.	i. Swat District. ii. Upper Dir District. ii a) Lower Dir District iii. Chitral District. iv. Buner District. v. Malakand Protected Area (Swat Ranizai and Sam-Ranizai). iv. Backward Areas of Mansehra consisting areas of District Battgram. vii. Kala Dhaka Area. viii. Upper Tanawal Area. ix. Kohistan District. ixa) Shangla District x. Gadoon Area in Swabi District.	4
4	Dera Ismail Khan, Tank, Bannu, Lakki, Kohat and Karak Districts.	Areas as detailed in column 2 against Srl. No. 4.	3
5	Districts of Abbottabad, Haripur and Mansehra excluding backward areas of Mansehra District which form part of Zone-III.	Areas detailed in column 2 against Serial No.5.	3

[71] Appendix subst. by Notification No.SOR.I(S&GAD)3-39/70(Vol.III), dated 22nd September,1992.
[72] As amended vide Notification No.SORVI(E&AD)1-17/2003/Vol-V, dated 24.2.2004

ZONAL ALLOCATION FORMULA

I am directed to refer to the subject noted above and to state that in accordance with the provisions of the S&GAD Notification No.SORI(S&GAD) 3-39/70, dated 3.2.1990 there shall be a block of 24 vacancies for posts carrying BPS-16 & 17 for the purpose of zonal allocation. Of these six shall form merit quota and the remaining 18 shall be reserved for bona fide residents of Zone 1,2,3,4 & 5.

2. For the purpose of practical application of the new zonal formula a new rotational cycle of 24 vacancies shall become operative with immediate effect in the following order:-

Vacancy		Zonal Allocation
Ist	...	Merit
2nd	...	Zone 1
3rd	...	Zone 2
4th	...	Zone 3
5th	...	Merit
6th	...	Zone 4
7th	...	Zone 5
8th	...	Zone 1
9th	...	Merit
10th	...	Zone 2
11th	...	Zone 3
12th	...	Zone 4
13th	...	Merit
14th	...	Zone 5
15th	...	Zone 1
16th	...	Zone 2
17th	...	Merit
18th	...	Zone 3
19th	...	Zone 4
20th	...	Zone 5
21st	...	Merit
22nd	...	Zone 1
23rd	...	Zone 2
24th	...	Zone 3

3. In view of the changed formula the Commission has decided that fresh allocation/adjustment of all the vacancies will start from the first vacancy of first block of the new formula, provided that in a cadre the over and under subscription as it stood on the date of commencement of new formula shall be taken into account in future allocation of vacancies under the new system.

4. I am accordingly to request you that fresh requisition may be placed on the Commission on the basis of the new zonal allocation formula indicating the previous over/under subscription of various zones.

(Authority No.3-89-DS/3241, dated 19.3.1990 (PSC))

CONSTITUTION OF PSB,DPC & DSC

NOTIFICATION
Peshawar, dated the 22nd August,1991.

No.SORI(S&GAD)4-1/75(Vol.I)**:-** In pursuance of the provisions contained in clause(d) and (g) of rule 2 of the North-West Frontier Province Civil Servants (Appointment, Promotion & Transfer) Rules,1989, read with rule 7(1) thereof and in supersession of this Department's Notification No.SOS-III (S&GAD)1-206/74-III, dated 16.5.1975, and No.SORI(S&GAD) 4-1/75, dated 18.9.1989, issued in this behalf, the Governor of North-West Frontier Province is pleased to constitute the Provincial Selection Board and the Departmental Promotion Committees for making selection to various posts as under**:-**

A- PROVINCIAL SELECTION BOARD

1. The Provincial Selection Board shall consist of the following**:-**

(1)	Chief Secretary, NWFP	... Chairman
(2)	Additional Chief Secretary, NWFP	... Member
(3)	Senior Member, Board of Revenue, NWFP	... Member
(4)	Administrative Secretary concerned	... Member
(5)	Secretary Services & General Administration Department.	... Member/ Secretary

2. [73]The Board shall make recommendations for appointment by promotion or transfer to all posts in Basic Pay Scale-18 and above and shall also assess fitness/suitability of officers for move-over to BPS-20 and make its recommendations.

B- DEPARTMENTAL PROMOTION COMMITTEES

1. For each Department, there shall be a Departmental Promotion Committee consisting of the following**:-**

(1)	Secretary of the Department concerned	...	Chairman
[74] (2)	Additional Secretary, S&GAD.	...	Member
[74] (3)	Additional Secretary, Finance Department	...	Member
(4)	Head of Attached Department concerned	...	Member
[74] (5)	Deputy Secretary of the Department concerned.	...	Secretary

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[73] Para 2 under A substituted by Notification No.SORI(S&GAD)4-1/75(Vol.II), dated 27.9.97.

[74] Substituted vide S&GAD Notification No.SORI(S&GAD)4-1/75(Vol.I), dated 5.12.1991.

2. [75]The Departmental Promotion Committee shall make recommendations for appointment by promotion or transfer to posts in BPS-16 and BPS-17 and shall also assess fitness/ suitability of officers for move over from BPS-15 to BPS-16, or BPS-16 to BPS-17 or BPS-17 to BPS-18,or BPS-18 to BPS 19 as the case may be, and make its recommendations.

3. In all cases, whether pertaining to promotion, transfer or move over, the Department concerned shall strictly adhere to the guidelines/policy instructions issued by the S&GAD from time to time.

4. No meeting of the Departmental Promotion Committee shall be held without representative of the S&GAD.

NOTIFICATION
Peshawar, dated the 17th June,1989.

No.SORI(S&GAD)4-1/75**:-** In pursuance of the provisions in rule 5 of the North-West Frontier Province Civil Servants (Appointment, Promotion & Transfer) Rules,1989, the Services and General Administration Department is pleased to lay down the constitution of the Departmental Promotion Committee and the Departmental Selection Committee for the purpose of making selection for promotion, transfer and initial appointment to the posts in BPS-15 and below in the Attached Departments/Offices as under**:-**

(1)	Appointing Authority	…	Chairman
(2)	An officer to be nominated by the Administrative Department concerned.	…	Member
(3)	An Officer to be nominated by Appointing Authority.	…	Member

[75] Para 2 under B substituted by Notification No.SORI(S&GAD)4-1/75(Vol.II), dated 27.9.97

Constitution of Departmental Selection Committees for posts in BPS-15 and below

Reference this Department's circular letter No.SORI(S&GAD) 4-1/75 (Vol.I), dated 4th March,1992 as amended vide this department letter of even number dated 12th October,1992, it was inter alia provided that candidates qualifying the written test for posts in BPS-11 to 15 be interviewed by a broadbased panel of Selection Committees of five/six members headed by the Ministries concerned.

2. It has been decided by the Provincial Government to withdraw the above orders with immediate effect to the extent that henceforth the Departmental Selection Committees, as constituted vide Notification No.SOS.III(S&GAD)1-206/74-1, dated 16.5.1975, and No.SORI(S&GAD)4-1/75, dated 17.6.1989,for posts in BPS-15 and below, shall stand revived as per details given below:-

I. Posts in the NWFP Civil Secretariat

(1)	Secretary, S&GAD	...	Chairman
(2)	Deputy Secretary, S&GAD	...	Member
(3)	Deputy Secretary(Opinion) Law Department.	...	Member
(4)	Section Officer concerned in S&GAD.	...	Secretary

II. Attached Departments/Offices in NWFP

(1)	Appointing Authority.	...	Chairman
(2)	An officer to be nominated by the Administrative Department concerned.	...	Member
(3)	An officer to be nominated by the Appointing Authority.	...	Member

3. It is requested to bring these instructions to the notice of all concerned for strict compliance.

(Authority:-SORI(S&GAD)4-1/75(Vol.II), dated 13th June,1993)

PROCEDURE FOR SELECTION FOR PROMOTION/INITIAL RECRUITMENT

I am directed to say that under rule 7 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules,1989 appointment by promotion to posts in BPS-2 to BPS-16 shall be made on the recommendations of the appropriate Departmental Promotion Committee. Similarly, under rule 11 of the rules ibid, initial appointments to posts in BPS-1 to 15 shall be made on the recommendation of the Departmental Selection Committee after the vacancies have been advertised in newspapers. However, no criteria for selection has so far been prescribed.

2. In order to ensure a fair degree of selection, minimize the chances of discretion and favouritism, the Provincial Government have laid down the following criteria for selection for promotion vis-a-vis initial recruitment to the posts which are filled by the department concerned**:-**

(I) **Criteria for Selection for Promotion:-**Promotion to any post in a grade below Grade-16 shall not be subject to any test. The suitability of candidates shall be determined on the basis of service record i.e seniority-cum-fitness.

(II) **Criteria of Selection for initial recruitment:-**

(i) **For post in Grades 1 to 4-** No special criteria has been laid down and the committee concerned shall adopt its own method and procedure for selection.

(ii) **For posts in Grade-5 and above in all departments- -**In addition to the total marks allocated for a written competitive examination, if any held, the total marks will be 100 as per distribution given below**:-**

(a) Prescribed qualification ...70

(b) Higher qualification ...12

(c) Experience ...10

(d) Interview ...08

3. Para 2 above indicates only the general distribution of the marks. To enable the Administrative Departments to develop criteria of comparative grading of candidates within the above overall framework, S&GAD has done a model exercise(attached as Annexure) for guidance of all concerned.

4. I am accordingly directed to request you to kindly ensure that the aforesaid criteria for selection for promotion vis-a-vis initial recruitment to posts is adhered to strictly in filling the vacant posts in future.

[76]ANNEXURE

COMPARATIVE GRADING OF QUALIFICATION

A. Minimum Prescribed Qualification.

		First	Second	Third	Total Mark
1	For Non-Professional Posts				70
(i)	Matric	70	53	42	
(ii)	Matric	35	26	21	
	FA/F.Sc	35	27	21	
(iii)	Matric	23	17	14	
	FA/F.Sc	23	17	14	
	B.A/B.Sc	24	18	14	
(iv)	Matric	17	13	10	
	F.A/F.Sc	17	13	10	
	B.A/B.Sc	17	13	11	
	M.A/M.Sc	19	14	11	
2.	For Professional Posts.				
(i)	For four examination				
	Ist Professional.	17	13	10	
	2nd Professional	17	13	10	
	3rd Professional	17	13	10	
	Final	19	14	12	
(ii)	For three examination				
	Ist Professional.	23	17	14	
	2nd Professional	23	17	14	
	Final	24	19	14	
(iii)	For two examination				
	Ist Professional	35	26	21	
	Final	35	27	21	

B. Higher Qualification ………… 12
(Next above the qualification prescribed under the rules).

one stage above	06
two stage above	08
three stage above	12

C. Experience …………… 10

Experience of one year	04
Experience of two years	07
Experience of three years and above	10

D. Interview ……………. 08

Total marks… 100

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[76] Annexure revised vide letter No.SORI(S&GAD)4-1/75(Vol.III) dated 26.5.2000

Explanations:

(a) Where qualification prescribed in the rules is Matric, comparative grading of candidates shall be done as shown at (A) (i) above. Where typing is prescribed in the rules as a part of qualification after Matric, all persons possessing the prescribed speed shall be considered as equal.

(b) Where the prescribed qualification is F.A, grading shall be done as indicated at (A) (ii) of Annexure. To illustrate; if the candidate is a 2nd Division in Matric and Ist Division in F.A., he shall get 26 plus 35 marks out of the total of 70 reserved for prescribed qualification.

(c) Where prescribed qualification is Graduation, the comparative grading shall be done (A) (iii) of Annexure above. If a candidate is 3rd Division in Matric, 2nd Division in F.A/F.Sc and Ist Division in B.A/B.Sc, he shall get 14,17, 24 marks i.e 55 marks out of 70.

(d) If the minimum qualification is M.A (which is very rare as the selection criteria pertain to posts in Grade 1 to 15 only) the grading shall be done as indicated at (A) (iv) above.

(e) The above grading can be applicable only where academic qualifications are from Matric onwards. In cases where technical qualifications (like Diploma or Certificate) are also prescribed after these basic qualifications, in such cases 70 marks for comparative grading shall be distributed as below:-

(1)	Total Marks	…	70
(2)	Basic qualification like Matric, F.A/B.A as may be provided in the rules.	…	50
(3)	Additional Technical qualifications	…	20

The method for further distribution of 20 marks shall be laid down by the Departments themselves on the analogy of the principles indicated above. 50 marks shall be distributed for the basic qualifications by necessary modification in the formula indicated at (A) of Annexure above. To illustrate, if the basic qualification is Matric, 50 marks shall be distributed as below:-

1st Division	2nd Division	3rd Division
50	38	30

It will be noticed that the same proportion as obtaining between the marks reserved for First, Second and Third Division at (A) above has been maintained in the distribution of 50 marks as shown above.

(f) Out of the 12 marks reserved for higher qualifications the actual marks to be given to a candidate are shown at (B) of Annexure. If the candidate possesses the qualification one stage above i.e. for example he is intermediate and qualification in the rules is Matric he shall get 6 marks; if he is a graduate and minimum qualifications is Matric he shall get 8 marks and so on.

(g) Marks for experience shall be for experience in the line at the scale shown at (C) of Annexure. Persons with more than 3 years experience shall also get the maximum i.e. 12 marks.

[77](h) The equation of grades versus division is as follows:-

Grade A & B	=	1st Division
Grade C & D	=	2nd Division
Grade E	=	3rd Division

Note:- Below 45% marks obtained in Grade-D will be considered as 3rd Division.

(i) In case where no division/grade is given in the respective Certificate, it is worked out on the basis of secured marks of candidates as follows:-

(a) 60% and above marks	…	1st Division
(b) 45% - 59% marks	…	2nd Division
(c) Below 45% marks	…	3rd Division

(j) If not specifically provided otherwise in the relevant Service Rules "experience" will mean in the line and only that experience is considered which has been acquired after the acquisition of minimum qualifications prescribed for the post.

[77] Substituted vide letter No.SORI(S&GAD)4-1/75, Dated 22.7.98.

Reservation of quota for appointment of children of Retiring Class-IV Govt. Servants on superannuation.

I am directed to refer to the subject cited above and to state that in supersession of all instructions issued in this behalf, the competent authority has been pleased to direct that a quota of 25% falling to the share of initial recruitment in BPS-1 to BPS-4 shall be reserved for appointment of one of the children of a retiring civil servant on superannuation/ invalidation; provided that:-

1) the appointment shall be made subject to the availability of vacancy.

2) A waiting list showing the name, designation and date of retirement/ invalidation of retiring civil servant shall be maintained in the department/office. The merit shall be determined from the date of retirement/invalidation of the civil servant.

3) The child possesses qualification prescribed for the post;

4) In case, the date of retirement/invalidation of two civil servants is the same, the child of the civil servant older in age shall be considered first for appointment.

5) Under age child of the said civil servant shall be included in the waiting list from the date of retirement/invalidation. However, he shall be considered for appointment after he attains the age prescribed for the posts.

2. The competent authority has further been pleased to authorize the Chief Secretary, NWFP to exercise the power of grant of relaxation of ban for initial appointment in cases of appointment of one of the children of retired/invalid civil servant and deceased civil servant died during the service as required in rule 10 (4) of the NWFP Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

3. I am, therefore, directed to request that the above policy instructions should be followed strictly in letter and spirit.

(Authority S&GAD letter No.SOR-I (S&GAD)4-1/80(vol-III) dated 23.5.2000)

Reservation of 25% quota for appointment of children of Retiring Class-IV Govt. Servants on superannuation.

In continuation of this department's circular letter of even number dated 23.5.2000, I am directed to refer to the subject cited above and to say that while submitting summary to the Competent Authority for the recruitment of a child of retiring civil servant in BPS-1 to BPS-4 on superannuation/invalidation, the Administrative Department shall certify that vacancy against which the child of the said civil servant was being recruited is within the prescribed quota.

(Authority S&GAD letter No.SOR-I (S&GAD)4-1/80(Vol-III), dated 1.7.2000)

Lifting of ban on appointment against deceased/
Rted. Government employees children quota

In supersession of all previous orders in this behalf, the competent authority is pleased to order lifting of ban on appointment against the following quotas;

i) Quota reserved for deceased employees children under Rule 10 (4) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989.

ii) Quota reserved for the children of Class-IV retired (on superannuation/ invalidation) Govt. employees vide this Department's letter SOR.I(S&GAD)4-1/80 (Vol.III) dated 1.7.2000.

2. However, the above mentioned lifting of ban is subject to the following conditions:-

i) Appointment against quota mentioned vide para No.1(i) above shall be given preference over Serial No.(ii).

ii) For appointment against quota mentioned vide para No.1(ii) above, the following conditions must be fulfilled:

a) Appointments shall be made after the adjustment of employees placed in Surplus Pool.

b) Instructions contained in this Department letter No.SORI (S&GAD)4-1/80(Col.III) dated 23.5.2000, may be followed in letter and spirit.

(Authority; letter No.SOR.VI(E&AD)1-3/2003, dated 30th June, 2003)

<u>ریٹائر ہونے والے کلاس فور ملازمین کے بچوں کی بھرتی۔</u>

مجھے ہدایت دی گئی ہے کہ عنوان بالا پر محکمہ خزانہ/انتظامیہ کے مراسلہ [illegible] مورخہ ۳ جون ۲۰۰۳ کا حوالہ دیتے ہوئے عرض کروں کہ [illegible] پالیسی میں ترمیم کر کے [illegible] ریٹائر ہونے والے کلاس فور ملازمین کے بچوں کیلئے براہ راست تقرری کیلئے مخصوص آسامیوں پر [illegible] کلاس فور [illegible] سکیل ایک تا چار (BPS 1 -4) تک کی آسامیوں پر بھرتی کو فاضل ملازمین کی کھپت اور محکمہ خزانہ کی این او سی (NOC) سے مستثنیٰ قرار دیا ہے۔ تاہم دیگر شرائط جو کہ محکمہ ہذا کے مراسلہ [illegible] مراسلہ نمبر SOR-I(S&GAD)4-1/80 Vol.III مورخہ ۲۳ مئی ۲۰۰۰ء میں دی گئی ہیں ان کو ملحوظ خاطر رکھا جائے۔

([illegible] ۲۰۰۳)

<u>درجہ چہارم ملازمین کی بھرتی پالیسی</u>

مجھے ہدایت کی گئی ہے کہ عرض کروں کہ محکمہ جات اور اضلاع سے موصول شدہ مراسلات سے پتہ چلتا ہے کہ درجہ چہارم ملازمین کی بھرتی کے سلسلے میں کچھ ابہام پائے جاتے ہیں اگرچہ اس موضوع پر وقتاً فوقتاً ضروری ہدایات جاری کی جا چکی ہیں۔ لہٰذا حسب ہدایت وزیر اعلیٰ صوبہ سرحد اب تک جاری شدہ قواعد اور پالیسی ہدایات اختصار کے ساتھ دوبارہ درج ذیل کئے جا رہے ہیں تاکہ تمام متعلقین کی راہنمائی ہو سکے:۔

(الف) <u>بھرتی کا طریقہ کار</u>

(i) درجہ چہارم کی آسامی خالی ہونے پر ضلعی اور صوبائی سرپلس پول سے موزوں فاضل ملازم تعینات کیا جائے۔ اگر سرپلس پول میں موزوں فاضل ملازم دستیاب نہ ہو تو براہ راست بھرتی کیلئے وزیر اعلیٰ صوبہ سرحد سے پابندی میں نرمی کی منظوری لی جائے کیونکہ فی الوقت فاضل ملازمین کی کھپت کے پیش نظر محکمہ خزانہ کے مراسلہ نمبر [illegible] مورخہ [illegible] اپریل ۲۰۰۲ء کے ذریعے سکیل ایک تا پانچ تک نئی بھرتی پر پابندی عائد کی گئی ہے۔

(ii) اگر درجہ چہارم کی خالی ہونے والی آسامیوں کا تعلق محکمہ خزانہ کی طرف سے <u>ملازمت کی تخلیق اور بھرتی کیلئے مخصوص محکموں کی مخصوص آسامیوں</u> سے ہو تو خالی ہونے کے بعد آسامی کو ختم کر دیا جائے گا اور محکمہ خزانہ کو معقول جواز پیش کرنے کے بعد ملازمت کی تخلیق اور اس کی بحالی کی منظوری لینی ہوگی۔ ملازمت کی تخلیق اور بھرتی کی ایک جامع پالیسی پہلے ہی بذریعہ مراسلہ نمبر [illegible] مورخہ [illegible] مئی ۲۰۰۲ء جاری کی جا چکی ہے۔

(iii) صوبہ سرحد سول ملازمین (تقرری، ترقی و تبادلہ) کے قواعد مجریہ ۱۹۸۹ء کے قاعدہ 10(2) کے ضمیمہ کے مطابق محکمانہ چیدہ کمیٹی سکیل ایک تا چار کی آسامیوں پر بھرتی ضلعی ایمپلائمنٹ ایکسچینج کے ذریعے کرے گی۔ تاہم جن اضلاع میں ایمپلائمنٹ ایکسچینج نہ ہوں وہاں پر ضلعی سطح کی محکمانہ چیدہ کمیٹی اخبارات میں مشتہر کرنے کے بعد بھرتی کرے گی۔ قاعدہ 12(3) کے مطابق سکیل ایک

اوردو کی آسامیوں پر مقامی باشندوں سے بھرتی کرنی چاہیے۔محکمہ عملہ کے مراسلہ نمبر SORI(S&GAD)4-1/75 مورخہ ۱۱فروری ۱۹۸۷ء کے مطابق سکیل ایک تا چار پر بھرتی کا کوئی مخصوص معیار (Criteria) متعین نہیں اور متعلقہ محکمہ چناؤ کیلئے سروس رولز میں معیار مقرر کرے۔

(iv) سول سرونٹ ایکٹ مجریہ ۱۹۷۳ء کی ترمیم شدہ سیکشن ۱۹ کے مطابق مورخہ ۲۳ جولائی ۲۰۰۵ء کے بعد باقاعدہ آسامیوں پر بھرتی باقاعدہ بنیادوں پر ہوگی تاہم ایسے ملازمین پنشن کے حقدار نہیں ہوں گے۔پنشن کے بجائے انہیں شراکتی کفایت شعاری فنڈ (C.P.Fund) ملے گا۔

(v) ضلعی حکومت کے قواعد انصرام کار مجریہ ۲۰۰۱ء کے قاعدہ۔۶ ذیلی قاعدہ (b)(1) کے مطابق متعلقہ ایگزیکیٹو ضلعی افسر (EDO) بنیادی سکیل ایک تا دس کی ضلعی آسامیوں کیلئے اور ضلعی رابطہ افسر بنیادی سکیل گیارہ تا پندرہ کیلئے حاکم تقرری (Appointing Authority) ہے اور ان ہی کی سربراہی میں ضلعی چناؤ کمیٹیاں (DSCs) بھی قائم کی گئی ہیں۔

(ب) <u>درجہ چہارم کی آسامیوں پر کوٹہ</u>

(i) سول ملازمین کے (بھرتی،ترقی وتبادلہ) کے قواعد مجریہ ۱۹۸۹ء کے قاعدہ 10(4) کے مطابق دوران ملازمت وفات پا جانے والے ملازم کے کسی ایک بچے کو یا اگر بچوں میں سے کوئی بھی مطلوبہ عمر کو نہ پہنچا ہو تو اس کی بیوہ کو، سکیل ایک تا پندرہ میں سے کسی بھی آسامی پر تعینات کیا جا سکتا ہے بشرطیکہ وہ مطلوبہ قابلیت کے حامل ہوں۔ یہ تعیناتی case to case بنیاد پر ہوتی ہے۔قاعدہ نمبر 10(4) کے تحت تقرری کو پہلے ہی "بھرتی پر پابندی" اور "سرپلس پول کی (NOC) این او سی" سے مستثنیٰ قرار دیا جا چکا ہے۔اسی طرح دوران ملازمت فوت ہونے والے ملازم کے بچے/بیوہ کی بھرتی کی ایک جامع پالیسی پہلے ہی جاری کی جا چکی ہے۔

(ii) صوبائی حکومت کی پالیسی کے تحت پیرانہ سالی یا معذوری (Supperannuation or invalidation) کے باعث سبکدوش ہونے والے کلاس فور (سکیل ایک تا چار کے) ملازمین کے بچوں کیلئے کلاس فور یعنی سکیل ایک تا چار کی آسامیوں پر 25% کوٹہ مختص ہے۔اس کوٹہ پر تعیناتی کیلئے سرپلس پول کی این او سی (NOC) کی ضرورت نہیں۔محکمہ ھذا کے مراسلہ نمبر SOR-I(S&GAD)4-1/80 Vol.III مورخہ ۲۳ مئی ۲۰۰۰ء کے ذریعے مفصل طریقہ کار (criteria) پہلے ہی جاری کیا جا چکا ہے۔

(اتھارٹی: مراسلہ نمبر صیغہ ضوابط ۲ (ای اینڈ اے ڈی) ۱-۱۳/۲۰۰۷ مورخہ ۲۲ مارچ ۲۰۰۷ء)

عنوان:۔ <u>سرکاری ملازمت کے عوض سرکاری تعلیمی اداروں اور دیگر سرکاری دفاتر کیلئے اراضی کا حصول</u>

مجھے درج بالا موضوع کے حوالے سے یہ کہنے کی ہدایت کی گئی ہے کہ حکومت صوبہ سرحد نے عدالت عظمیٰ کے فیصلے کی روشنی میں بذریعہ مراسلہ نمبر۔افسر صیغہ ضوابط ا (ایس اینڈ جی ڈی) ۱۔۱۶۱۔۹۳ مورخہ ۱۲ جون ۱۹۹۳ء ہدایات جاری کیں جن میں سرکاری تعلیمی اداروں اور دفاتر کیلئے حصول اراضی کی ممانعت کی گئی تھی۔ اس کے بعد کئی مراسلہ جات کے ذریعے مذکورہ ہدایات کا اعادہ کیا گیا تاہم یہ بات نوٹ کی گئی ہے کہ ان ہدایات پر خاطر خواہ عمل نہیں کیا جاتا رہا اور حکومتی اداروں نے زمین مالکان کے ساتھ ان ہدایات کو پس پشت ڈال کر ایسے معاہدے کئے جن کے تحت زمین مالکان کو کلاس۔IV آسامیوں پر تعیناتی کی پیشکش کی گئیں جن سے بہت سی پیچیدگیاں پیدا ہو سکتی ہیں۔

۲۔ اس صورتحال کو پیش نظر رکھ کر محکمہ عملہ نے بذریعہ مراسلہ نمبر صیغہ۔۵ (ای اینڈ اے) ۱۔۱/۲۰۰۲ء مورخہ ۲ دسمبر ۲۰۰۲ء ہدایات جاری کیں کہ زمین مالکان کے ساتھ کئے گئے تحریری معاہدوں کے مطابق کلاس۔IV آسامیوں پر تقرری کے لئے علیحدہ علیحدہ (On case to case basis) سمری کے ذریعے وزیر اعلیٰ صوبہ سرحد سے منظوری لی جائے اور آئندہ کیلئے ایسے معاہدے کرنے سے سختی سے گریز کیا جائے۔

۳۔ زیر موضوع معاملے کا ایک بار پھر اعلیٰ سطح پر جائزہ لیا گیا ہے اور یہ محسوس کیا گیا ہے کہ مفت زمین بطور عطیہ (بلا معاوضہ) فراہم کرنے پر کوئی پابندی عائد نہیں ہے البتہ اس کے بدلے سرکاری ملازمت حاصل کرنے کے لئے معاہدے کرنا غیر قانونی ہے۔ تاہم مفت زمین فراہم کرنے والے افراد اگر بھرتی کی تمام شرائط پر پورا اترتے ہوں، اور دیگر امیدواروں کے ہم پلہ ہوں تو قانونی دائرہ کار کے اندر رہتے ہوئے انہیں ترجیح دی جا سکتی ہے۔ آئین کے شق ۱۸۹۔۱۹۰ کے تحت سپریم کورٹ اگر کوئی فیصلہ صادر کرے جس میں قانونی اصول طے کیا گیا ہو تو تمام ماتحت عدالتیں بشمول انتظامیہ اس پر عمل درآمد کرنے کی پابند ہونگی۔ خلاف ورزی کی صورت میں، ہائی کورٹ یا سپریم کورٹ از خود نوٹس لے سکتی ہیں اور مرتکب افسران کے خلاف تادیبی کاروائی بھی عمل میں لائی جا سکتی ہے۔

۴۔ مندرجہ بالا صورت حال کی روشنی میں ایک بار پھر یہ وضاحت کی جاتی ہے کہ آئندہ کیلئے اراضی کے عوض سرکاری ملازمت دینے کا کسی قسم کا کوئی معاہدہ نہ کیا جائے اور ان ہدایات پر آئندہ کیلئے سختی سے عملدرآمد کو یقینی بنایا جائے۔

(اتھارٹی مراسلہ نمبر افسر صیغہ ضوابط ۶ (ای اینڈ اے ڈی) ۱۔۱۰/۲۰۰۷ء مورخہ ۲ جنوری ۲۰۰۸ء)

APPOINTMENT IN LIEU OF LAND GRANTS

I am directed to refer to this Department circular letter of even number, dated 2nd January, 2008 (in Urdu language) on the subject noted above and to state that the matter regarding making appointments in lieu of land for various government offices/institutions has been reconsidered and it has been reaffirmed that the practice not only tantamounts to violation of Constitutional Law applicable to public offices and courts' verdicts given in such cases from time to time, but also does not keep pace with the changed circumstances.

It has been decided with the approval of the competent authority, that the policy of making/offering appointments in lieu of land grants shall stand discontinued forthwith. Henceforth, land for official use should be purchased on payment in accordance with the prescribed procedure.

It is requested that the above decision of the Provincial Government may kindly be noted and circulated among all concerned for strict compliance.

(Authority; letter No.SOR-VI/E&AD/1-10/07, dated 6th January, 2009)

عنوان :۔ <u>سرکاری ملازمت کے عوض سرکاری تعلیمی اداروں اور دیگر سرکاری دفاتر کیلئے اراضی کا حصول</u>

مجھے درج بالا موضوع کے حوالے سے یہ کہنے کی ہدایت کی گئی ہے کہ حکومت صوبہ سرحد نے عدالت عظمٰی کے فیصلے کی روشنی میں بذریعہ مراسلہ نمبر۔افسر صیغہ ضوابط ا (ایس اینڈ جی ڈی) ا۔۱۲۱۔۹۳ مورخہ ۱۲ جون ۱۹۹۳ء ہدایات جاری کیں جن میں سرکاری تعلیمی اداروں اور دفاتر کیلئے حصول اراضی کی ممانعت کی گئی تھی۔ اس کے بعد کئی مراسلہ جات کے ذریعے مذکورہ ہدایات کا اعادہ کیا گیا تاہم یہ بات نوٹ کی گئی ہے کہ ان ہدایات پر خاطر خواہ عمل نہیں کیا جاتا رہا اور حکومتی اداروں نے زمین مالکان کے ساتھ ان ہدایات کو پس پشت ڈال کر ایسے معاہدے کئے جن کے تحت زمین مالکان کو کلاس۔IV آسامیوں پر تعیناتی کی پیشکش کی گئیں جن سے بہت سی پیچیدگیاں پیدا ہو سکتی ہیں۔

۲۔ اس صورتحال کو پیش نظر رکھ کر محکمہ عملہ نے بذریعہ مراسلہ نمبر صیغہ۔۵ (ای اینڈ اے) ا۔۱/۴/۲۰۰۲ء مورخہ ۲ دسمبر ۲۰۰۲ء ہدایات جاری کیں کہ زمین مالکان کے ساتھ کئے گئے تحریری معاہدوں کے مطابق کلاس۔IV آسامیوں پر تقرری کے لئے علیحدہ علیحدہ (On case to case basis) سمریز کے ذریعے وزیر اعلیٰ صوبہ سرحد سے منظوری لی جائے اور آئندہ کیلئے ایسے معاہدے کرنے سے سختی سے گریز کیا جائے۔

۳۔ زیر موضوع معاملے کا ایک بار پھر اعلیٰ سطح پر جائزہ لیا گیا ہے اور یہ محسوس کیا گیا ہے کہ مفت زمین بطور عطیہ (بلا معاوضہ) فراہم کرنے پر کوئی پابندی عائد نہیں ہے البتہ اس کے بدلے سرکاری ملازمت حاصل کرنے کے لئے معاہدے کرنا غیر قانونی ہے۔ تاہم مفت زمین فراہم کرنے والے افراد اگر بھرتی کی تمام شرائط پر پورا اترتے ہوں، اور دیگر امیدواروں کے ہم پلہ ہوں تو قانونی دائرہ کار کے اندر رہتے ہوئے انہیں ترجیح دی جا سکتی ہے۔ آئین کے شق ۱۸۹۔۱۹۰ کے تحت سپریم کورٹ اگر کوئی فیصلہ صادر کرے جس میں قانونی اصول طے کیا گیا ہو تو تمام ماتحت عدالتیں بشمول انتظامیہ اس پر عمل درآمد کرنے کی پابند ہونگی۔ خلاف ورزی کی صورت میں، ہائی کورٹ یا سپریم کورٹ از خود نوٹس لے سکتی ہیں اور مرتکب افسران کے خلاف تادیبی کاروائی بھی عمل میں لائی جا سکتی ہے۔

۴۔ مندرجہ بالا صورت حال کی روشنی میں ایک بار پھر یہ وضاحت کی جاتی ہے کہ آئندہ کیلئے اراضی کے عوض سرکاری ملازمت دینے کا کسی قسم کا کوئی معاہدہ نہ کیا جائے اور ان ہدایات پر آئندہ کیلئے سختی سے عملدرآمد کو یقینی بنایا جائے۔

(اتھارٹی مراسلہ نمبر افسر صیغہ ضوابط ۲ (ای اینڈ اے ڈی) ا۔۱۹/۷/۲۰۰۷ء مورخہ ۲ جنوری ۲۰۰۸ء)

اس فیصلے کا اطلاق نئی بھرتی اور مخصوص شدہ پوسٹوں پر ہوگا جس کی منظوری محکمہ خزانہ دے گا۔ اور اس مقصد کیلئے بجٹ مخصوص کرے گا۔ مزید وضاحت کیلئے محکمہ خزانہ کا مراسلہ نمبر B1/1-22/94-95/FD/Vol-II مورخہ ۲۴ جولائی ۱۹۹۹ء ملاحظہ ہو۔ سال ۲۰۰۴ء میں محکمہ خزانہ نے پالیسی کی ایک بار پھر وضاحت کرتے ہوئے بذریعہ مراسلہ نمبر BI/1-70/2003-04/FD مورخہ ۲۰ اپریل ۲۰۰۴ تمام محکمہ جات کو یہ یاد دہانی کی کہ محکمہ جات میں مخصوص شدہ سکیل ایک کی باقاعدہ پوسٹیں خالی ہونے پر ختم کر دی جائیں اور محکمہ خزانہ سے ان کی فکسڈ تنخواہ پر تخلیق کا معاملہ جواز کے ہمراہ اٹھایا جائے گا۔ ساتھ ہی ساتھ یہ وضاحت بھی کی گئی کہ مخصوص محکمہ جات میں سکیل ۔۲ اور اوپر کی تمام اسامیاں اور دیگر محکموں میں سکیل ایک اور اوپر کی آسامیوں کو فکسڈ تنخواہ میں بدلنے کی ضرورت نہیں ہے۔ محکمہ خزانہ نے مراسلہ نمبر B1/1-22/2001-2002/FD/Vol-II مورخہ ۳۱ مارچ ۲۰۰۵ء کے ذریعے وضاحت بھی کر دی ہے کہ مخصوص محکمہ جات میں مخصوص آسامیاں بھی باقاعدہ سرپلس ملازمین کی Adjustment تک فکسڈ تنخواہ میں تبدیل نہیں کی جائیں گی۔ نئی بھرتی اگر ناگزیر ہو تب سرپلس پول سے NOC لینا ضروری ہے۔ اگر صوبائی یا ضلعی سرپلس پول میں مطلوبہ قابلیت کے حامل باقاعدہ ملازمین میسر نہ ہوں تو متعلقہ محکمہ سرپلس پول سے این او سی (NOC) حاصل کرنے کے بعد کنٹریکٹ کی بنیاد پر بھرتی محکمہ خزانہ کی کنٹریکٹ پالیسی جو کہ مراسلہ نمبر FD(SORSR-III)12-1/2002 مورخہ ۲۶ اکتوبر ۲۰۰۲ء کے ذریعے جاری کی گئی کے تحت کریں گے۔

(ii) چونکہ سکیل ۔ایک تا پانچ تک بھرتی پر پابندی ہے لہٰذا وزیر اعلیٰ صوبہ سرحد سے بھرتی پر پابندی میں نرمی کی منظوری بھی حاصل کی جائے گی۔

(iii) جہاں تک نئی بھرتی کے طریقہ کار کا تعلق ہے تو محکمہ عملہ نے (تعیناتی، تبادلہ و ترقی) رولز 1989 میں ترمیم کر دی ہے جس کے مطابق محکمہ خزانہ سے منظوری اور دیگر لوازمات کے بعد سکیل ایک تا چار آسامیوں پر تعیناتی کیلئے محکمانہ چناؤ کمیٹی ضلعی ایمپلائمنٹ ایکسچینج کے ذریعے تعیناتی عمل میں لائیگی۔ اور جن اضلاع میں ایمپلائمنٹ ایکسچینج موجود نہ ہوں وہاں پر ضلعی سطح کی محکمانہ چناؤ کمیٹی معروف اخبارات میں تشہیر کے بعد تعیناتی عمل میں لائے گی۔ فکسڈ تنخواہ والے ملازمین کی تعیناتی کیلئے بھی یہی طریقہ کار اپنایا جائے گا۔

(iv) اگر مخصوص محکمہ جات میں سے کسی بھی محکمہ نے مخصوص شدہ پوسٹ کو فکسڈ تنخواہ والی پوسٹ میں تبدیل کر دیا ہو تو بعد میں باقاعدہ سرپلس ملازم یا بحکم عدالت بحال ہونے والے باقاعدہ ملازم کو اس پر ایڈجسٹ کرنے کیلئے ایسی اسامیوں کو Case to case بنیاد پر محکمہ خزانہ سے باقاعدہ پوسٹوں پر تبدیل کرایا جائے گا۔

(اتھارٹی: مراسلہ نمبر صیغہ ضوابط ۴ (ای اینڈ اے ڈی) ۱۱-۱/۲۰۰۵ء مورخہ ۹ مئی ۲۰۰۶ء)

Promotion Policy

In order to consolidate the existing Promotion Policy, which is embodied in several circular letters issued in piecemeal from time to time, and to facilitate the line departments at every level in prompt processing of promotion cases of Provincial civil servants, it has been decided to issue the "North-West Frontier Province Civil Servants Promotion Policy, 2009" duly approved by the competent authority, for information and compliance by all concerned. This Policy will apply to promotions of all civil servants holding appointment on regular basis and will come into effect immediately. The Policy consists of the provisions given hereunder:-

I. Length of service.

(a) Minimum length of service for promotion to posts in various basic scales will be as under:

Basic Scale18 : 5 years' service in BS-17
Basic Scale 19: 12 years' service in BS-17 & above
Basic Scale 20: 17 years' service in BS-17 & above

No proposal for promotion shall be entertained unless the condition of the prescribed length of service is fulfilled.

(b) Service in the lower pay scales for promotion to BP-18 shall be counted as follows:

(i) Half of the service in BS-16 and one fourth in Basic Scales lower than 16, if any, shall be counted as service in Basic Scale 17.

(ii) Where initial recruitment takes place in Basic Scale 18 and 19, the length of service prescribed for promotion to higher Basic Scales shall be reduced as indicated below:

Basic Scale 19 : 7 years' service in BS-18

Basic Scale 20 : 10 years' service in BS-18 and above.
or 3 years' service in BS-19.

II. Linking of promotion with training:

(a) Successful completion of the following trainings is mandatory for promotions of officers of the Provincial Civil Service / Provincial Management Service to various Basic Scales:

- Mid-Career Management Course at National Institute of Management (NIM) for promotion to BS-19
- Senior Management Course at National Management College, Lahore for promotion to BS-20
- National Management Course at National Management College, Lahore for promotion to BS-21

(b) This condition will not be applicable to civil servants in specialized cadres such as Doctors, Teachers, Professors, Research Scientists and incumbents of purely

technical posts for promotion within their own line of specialization as envisaged in the existing Promotion Policy.

(c) The qualifying thresholds of quantification of PERs for nomination to these trainings are as under:

MCMC	60
SMC	70
NMC	75

(d) There will be no exemptions from mandatory trainings. An officer may, however, request for temporary exemption in a particular moment in time but grant of such exemption would be at the discretion of the competent authority. No such request with regard to an officer would be made by the Government Departments concerned.

(e) Three officers shall be nominated for each slot of promotion on the basis of their seniority. Those unwilling to attend will be dropped at their own expense without prejudice to the rights of others and without thwarting or minimizing the chance of improving the quality of service.

(f) Officers failing to undergo mandatory training in spite of two time nominations for a training shall stand superseded if such failure was not for the reasons beyond the control of the officers concerned.

III. Development of Comprehensive Efficiency Index (CEI) for promotion:

(a) The Comprehensive Efficiency Index to be maintained for the purpose of promotion is clarified as under:

(i) The minimum of aggregate marks for promotion to various grades shall be as follows:

Basic Scale	Aggregate marks of Efficiency Index
18	50
19	60
20	70
21	75

(ii) A panel of two senior most officers shall be placed before the Provincial Selection Board for each vacancy in respect of promotion to BS-18 & 19. Similarly, a panel of three senior most officers shall be submitted to the Provincial Selection Board for each position in respect of promotion to BS-20 and 21 and the officer with the requisite score on the Efficiency Index shall be recommended for promotion.

(iii) The senior most officer(s) on the panel securing the requisite threshold of the Efficiency Index shall be recommended by the Provincial Selection Board for promotion unless otherwise deferred. In case of failure to attain the requisite threshold, he (she)/they shall be superseded and the next officer on the panel shall be considered for promotion.

(b) Marks for quantification of PERs, Training Evaluation Reports and Provincial Selection Board evaluation shall be assigned as under:-

S.No.	Factor	Marks for promotion to BS-18 & 19	Marks for promotion to BS-20 & 21
1.	Quantification of PERs relating to present grade and previous grade(s) @ 60% : 40%	100%	70%
2.	Training Evaluation Reports as explained hereafter.	--	15%
3.	Evaluation by PSB	--	15%
	Total	100%	100%

(c) A total of fifteen (15) marks shall be allocated to the Training Evaluation Reports (Nine marks @ 60% for the training in the existing BPS and Six marks @ 40% in the preceding BS). Evaluation of the reports from the Training Institutions shall be worked out as under:-

(i) It shall be on the basis of Grade Percentage already awarded by the National School of Public Policy (National Management College and Senior Management Wing) and its allied Training Institutions as provided in their reports.

(ii) Previous reports of old Pakistan Administrative Staff College and old NIPAs where no such percentage has been awarded, points shall be worked out on the basis of weighted average of the percentage range of grades followed by these Institutions as reflected in table-A below:

TABLE-A

Old PASC & NIPAs

Category	Range	Weighted Average	Points of PASC @ 60%=9	Points of NIPAs @ 40%=6
A. Outstanding	91-100%	95.5%	8.60	5.73
B. Very Good	80-90%	85%	7.65	5.10
C. Good	66-79%	72.5%	6.52	4.35
D. Average	50-65%	57.5%	5.17	3.45
E. Below Average	35-49%	42%	3.78	2.52

(iii) Grades from National Defence University will be computed according to the weighted average based on the Grading Key for the range provided by the NDU as reflected in Table-B below:

TABLE-B

NATIONAL DEFENCE UNIVERSITY

Category		Range	Weighted Average	Points @ 60%=9
A.	Outstanding	76-100%	88%	7.92
B-Plus.	Very Good	66-75.99%	71%	6.39
B- High.	Good	61-65.99%	63.5%	5.71
B-Average.	Average	56-60.99%	58.5%	5.26
B-Low.	Below Average	51-55.99%	53.5%	4.81
B-Minus.	Below Average	46-50.99%	48.5%	4.36
C.	Below Average	40-45.99%	43%	3.87
F.	Below Average	35-39.99%	37.5%	3.37

(d) The officers who have been granted exemption from mandatory training having attained the age of 56 years or completed mandatory period of serving in a Training Institution upto 27-12-2005, may be awarded marks on notional basis for the training factor (for which he/she was exempted) in proportion to the marks obtained by them in the PERs.

(e) Status quo shall be maintained in respect of officers of special cadres such as teachers, doctors, professors, research scholars and incumbents of technical posts for promotion within their own line of specialty. However, for calculation of their CEI, 70% marks shall be assigned to the quantified score of PER s and 30% marks shall be at the disposal of the PSB.

(f) For promotion against selection posts, the officer on the panel securing maximum marks will be recommended for promotion. Thirty marks placed at the disposal of the Provincial Selection Board in such cases shall be awarded for technical qualification, experience and accomplishments (research publications relevant to the field of specialism).

(g) Since three of the aspects of performance i.e. moral integrity, intellectual integrity, quality and output of work do not figure in the existing PER forms, the grades secured and marks scored by the officer in overall assessment shall be notionally repeated for the other complementary evaluative aspects and form the basis of quantification.

(h) The performance of officers shall be evaluated in terms of the following grades and scores:

		Upto 11th June, 2008	**From 12th June, 2008**
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	7 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(i) The outstanding grading shall be awarded to officers showing exceptional performance but in no case should exceed 10% of the officers reported on. The grading is not to be printed in the PER form but the reporting officer while rating an officer as “outstanding” may draw another box in his own hand in the form, initial it and write outstanding on the descriptive side. Convincing justification for the award shall be recorded by the reporting /countersigning officer. The discretion of awarding “outstanding” is to be exercised extremely sparingly and the award must be merited.

(j) The quantification formula and instructions for working out quantified score are annexed.

IV. Promotion of officers who are on deputation, long leave, foreign training:

a) The civil servants who are on long leave i.e. one year or more, whether within or outside Pakistan, may be considered for promotion on their return from leave after earning one calendar PER. Their seniority shall, however, remain intact.

b) The civil servants who are on deputation abroad or working with international agencies within Pakistan or abroad, will be asked to return before their cases come up for consideration. If they fail to return, they will not be considered for promotion. They will be considered for promotion after earning one calendar PER and their seniority shall remain intact.

c) [78]In case of projects partially or fully funded by the Federal or Provincial Government, where PERs are written by officers of Provincial Government, the condition of earning one calendar PER shall not be applicable. The officers on deputation to projects shall be considered for promotion. However, after promotion they will have to actualize their promotion within their cadre.

d) The civil servants on deputation to Federal Government, Provincial Government, autonomous/semi-autonomous organization shall be considered for promotion and informed to actualize their promotion within their cadres. They shall have to stay and not be allowed to go back immediately after promotion. Such stay shall be not less than a minimum of two years. If he/she declines his/her actual promotion will take place only when he/she returns to his/her parent cadre. His/her seniority in the higher post shall, however, stand protected.

e) The cases of promotion of civil servants who have not successfully completed the prescribed mandatory training (MCMC, SMC & NMC) or have not passed the departmental examination for reasons beyond control, shall be deferred.

f) Promotion of officers still on probation after their promotion in their existing Basic Scales shall not be considered.

g) A civil servant initially appointed to a post in a Government Department but retaining lien in a department shall not be considered for promotion in his parent department.

[78] para 1 (iv)(c) substituted vide circular letter No. SORIV/E&AD/1-16/2006, dated 19.4.2010

However, in case he returns to parent department, he would be considered for promotion only after he earns PER for one calendar year.

h) A civil servant who has resigned shall not be considered for promotion no matter the resignation has yet to be accepted.

V. <u>Deferment of Promotion:</u>

(a) Promotion of a civil servant will be deferred, in addition to reasons given in para-IV, if

  (i) His inter-se-seniority is disputed/sub-judice.
  (ii) Disciplinary or departmental proceedings are pending against him.
  (iii) The PER dossier is incomplete or any other document/ information required by the PSB/DPC for determining his suitability for promotion is not available for reasons beyond his control.

(b) The civil servant whose promotion has been deferred will be considered for promotion as soon as the reasons for deferment cease to exist. The cases falling under any of the above three categories do not warrant proforma promotion but the civil servant will be considered for promotion after determining his correct seniority over the erstwhile juniors.

(c) If an officer is otherwise eligible for promotion but has been inadvertently omitted from consideration in the original reference due to clerical error or plain negligence and is superseded, he should be considered for promotion as soon as the mistake is noticed.

(d) If and when an officer, after his seniority has been correctly determined or after he has been exonerated of the charges or his PER dossier is complete, or his inadvertent omission for promotion comes to notice, is considered by the Provincial Selection Board/ Departmental Promotion Committee and is declared fit for promotion to the next higher basic scale, he shall be deemed to have been cleared for promotion alongwith the officers junior to him who were considered in the earlier meeting of the Provincial Selection Board/Departmental Promotion Committee. Such an officer, on his promotion will be allowed seniority in accordance with the proviso of sub-section (4) of Section 8 of the North-West Frontier Province Civil Servants Act, 1973, whereby officers selected for promotion to a higher post in one batch on their promotion to the higher post are allowed to retain their inter-se-seniority in the lower post. In case, however, the date of continuous appointment of two or more officers in the lower post/grade is the same and there is no specific rule whereby their inter-se-seniority in the lower grade can be determined, the officer older in age shall be treated senior.

(e) If a civil servant is superseded he shall not be considered for promotion until he earns one PER for the ensuing one full year.

(f) If a civil servant is recommended for promotion to the higher basic scale/post by the PSB/DPC and the recommendations are not approved by the competent authority

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSB/DPC afresh.

VI. Date of Promotion:
Promotion will always be notified with immediate effect.

VII. Notional Promotion:
In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSB/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSB/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII. Promotion of Civil Servants who are awarded minor penalties.

(a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.

(b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX. Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

ANNEX: I

First Step

Arithmetic mean will be calculated for each calendar year containing 2 or more CRs to derive the ACR score for that year as follow:

$$M = \frac{\sum M_y}{N_y}$$

Where

M_y = marks for each CR recorded in calendar year 'y',

N_y = Number of CRs recorded in year 'y', and ∑ stands for summation.

Second Step

Average marks for each level will be calculated according to the following formula:

$$\text{Average marks} = \sum \frac{M}{T}$$

Where

M = Marks for ACRs; and
T = Total number of ACRs in posts at that level.

Third Step

Weightage for posts held at each level will be given as follows in computing the aggregate score against a uniform scale of 100 marks for promotion:

(i)	to post carrying basic pay scale 18	10 x A
(ii)	to post carrying basic pay scale 19	(6 x B) + (4 x A)
(iii)	to post carrying basic pay scale 20	(5 x C) + (3 x B) + (2 x A)
(iv)	to post carrying basic pay scale 21	(5 x D) + (3 x C) + (A + B)

Where

A = Average marks for reports in posts carrying basic pay scale 17
B = Average marks for reports in posts carrying basic pay scale 18
C = Average marks for reports in posts carrying basic pay scale 19
D = Average marks for reports in posts carrying basic pay scale 20

Fourth Step

The following additions/deductions shall be made in the total marks worked out in the third step.

A. Additions:

(i)	for serving in a Government training institution, including those meant for specialized training in any particular cadre, for a period of 2 years or more	2 marks

B. Deductions:

(i)	for each major penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973	5 marks
(ii)	for each minor penalty imposed under the Government Servants (Efficiency and Discipline) Rules, 1973	3 marks
(iii)	for adverse remarks (deductions be made for such remarks only as were duly conveyed to the concerned officer and were not expunged on his representation, or the officer did not represent)	1 mark per CR containing adverse remarks

ANNEX: II

Example: Suppose an officer is being considered for promotion to BS-20. He has served for seven years in BS-17, six years in BS-18 and five years in BS-19. His score of PER is as under:

Overall Assessment

BS-17.	1 Very Good, 5 Good, 3 Average of which 2 Good and 1 Average grading are earned in one calendar year. The other gradings cover full calendar year.	
BS-17:	Mean for 2 Good and one Average grading earned in one calendar year. Average marks	$\frac{(2x7)+(1x5)}{3} = 6.33$ $\frac{(1x10)+(3x7)+(2x5)+6.33}{7}$ = 6.76
BS-18.	5 Good, 2 Average of which 1 Good and 1 Average gradings are earned in one calendar year.	
BS-18	Mean for 1 Good And 1 Average gradings earned in one calendar year. Average marks	$\frac{(1x7)+(1x5)}{2} = 6$ $\frac{(4x7)+(1x5)+6}{6} = 6.50$
BS-19.	1 Very Good, 4 Good and 1 Average of which 1 Very Good and 1 Average are earned in one calendar year.	
BS-19:	Mean for 1 Very Good and 1 Average earned in a calendar year Average marks	$\frac{(1x10)+(1x5)}{2} = 7.50$ $\frac{(4x7)+7.5}{5} = 7.10$

Quality and Output of Work

BS-17:	2 Very Good, 6 Good and 1 Average grading of which 2 Good and 1 Average gradings are earned in one calendar year.

Mean for 2 Good and 1 Average grading $= \frac{(2x7)+(1x5)}{3} = 6.3$

Average Marks $= \frac{(2x10)+(4x7)+6.3}{7} = 7.76$

BS-18:	1 Very Good, 5 Good and 1 Average grading of which 1 Good and 1 Average grading are earned in one calendar year.

Mean for 1 Good and 1 Average grading $= \frac{(1x7)+(1x5)}{2} = 6$

Average Marks $= \frac{(1x10)+(4x7)+6}{6} = 7.33$

BS-19:	5 Very Good and 1 Average grading of which 1 Good and 1 Average grading are earned in one calendar year.

Mean for 1 Good and 1 Average grading = $\frac{(1x7)+(1x5)}{2}$ = 6

Average Marks = $\frac{(4x7)+6}{5}$ = 6.8

Moral Integrity

BS-17:	2 Very Good, 5 Good and 1 Average grading of which 1 Good and 1 Average grading are earned in one calendar year.

Mean for 1 Good and 1 Average grading = $\frac{(1x7)+(1x5)}{2}$ = 6

Average Marks = $\frac{(2x10)+(4x7)+6}{7}$ = 7.71

BS-18:	1 Very Good, 5 Good and 1 Average grading of which 2 Good grading are earned in one calendar year.

Mean for 2 Good grading = $\frac{(1x7)+(1x7)}{2}$ = 7

Average Marks = $\frac{(1x10)+(3x7)+(1x5)+7}{6}$ = 7.16

BS-19:	1 Very Good, 5 Good of which 2 Good grading are earned in one calendar year.

Mean for 2 Good grading = $\frac{(1x7)+(1x7)}{2}$ = 7

Average Marks = $\frac{(1x10)+(3x7)+7}{5}$ = 7.6

Intellectual Integrity

BS-17:	1 Very Good, 4 Good and 4 Average grading of which 1 Good and 2 Average gradings are earned in one calendar year.

Mean for 1 Good and 2 Average grading = $\frac{(1x7)+(2x5)}{3}$ = 5.67

Average Marks = $\frac{(1x10)+(3x7)+(2x5)+5.67}{6}$ = 6.67

BS-18:	5 Good and 2 Average grading of which 2 Good grading are earned in one calendar year.

Mean for 2 Good grading = $\frac{(2x7)}{2}$ = 7

Average Marks = $\frac{(3x7)+(2x5)+7}{6}$ = 6.33

BS-19:	2 Very Good, 3 Good and 1 Average grading of which 1 Very Good and 1 Good grading are earned in one calendar year.

Mean for 1 Very Good and 1 Good grading	=	$\frac{(1x10)+(1x17)}{2}$	=	8.5
Average Marks	=	$\frac{(1x10)+(2x7)+(1x5)+8.5}{5}$	=	7.5

Quantified Score

BS-17:	$\frac{6.76+6.76+7.71+7.76}{4}$	=	7.22
BS-18:	$\frac{6.50+6.33+7.16+7.33}{4}$	=	6.83
BS-19:	$\frac{7.50+7.50+7.60+6.80}{4}$	=	7.35

Quantification

= (5x7.35)+(3x6.83)+(2x7.22)
= 36.75+20.49+14.44
= 71.68

Deduction

On account of adverse entry in BS-18 = 1

Net quantified score = 71.68-1 = 70.68

Note: For purpose of efficiency Index, the negative marks shall be deducted from the quantified score of the relevant grade (in the instant case from BS-18 i.e. 20.49-1 = 19.49).

ANNEX: III

QUANTIFICATION FORM

SENIORITY NO. ________________

NAME __________________________________

NPS NO	YEAR	O.A	Q&OW	INTEGRITY		NPS NO	YEAR	O.A	Q&OW	INTEGRITY	
				MORAL	IN TEL:					MORAL	IN TEL
	1965						1978				
	1966						1979				
	1967						1980				
	1968						1981				
	1969						1982				
	1970						1983				
	1971						1984				
	1972						1985				
	1973						1986				
	1974						1987				
	1975						1988				
	1976						1989				
	1977						1990				

QUANTIFICATION

OVER ALL ASSESSMENT

NPS NO.	No. of Gradings				Mean Score of broken periods
	VG	G	A	BA	
17					
18					
19					
20					

Average Marks:
B – 17
B – 18
B – 19
B – 20
Score
Marks for ACRS: [ ]
Addition for Serving in a Training institution From to :
Deduction for Penalty/adverse Remarks : [ ]
Final Score :

QUALITY & OUTPUT OF WORK

No. of Gradings				Mean Score of broken periods
VG	G	A	BA	

Score

INTEGRITY (GENERAL/MORAL)

No. of Gradings				Mean Score of broken periods
VG	G	A	BA	

Score [ ]

INTEGRITY (INTELLECTUAL)

No. of Gradings				Mean Score of broken periods
VG	G	A	BA	

Score [ ]

To be singed by the competent authority

ANNEX: IV

Efficiency Index in case of the given example will be as under:-

Marks for quantification of PERs 42 @ 60% for present grade 28 @ 40% for preceding grades		70%	
Quantified score for BS-17 and BS-18 =	14.44+19.49 = 33.93		
Score out of 28 @ 40%	=	33.93x28 / 50	= 19.00
Quantified score for BS-19	=	36.75	
Score out of 42 @ 60%	=	33.75x42 / 50	= 30.87
Marks for quantification of PERs =	19.00+30.87 = 49.87		
Total Marks for quantification of PERs	=	49.87	
Marks for Training Evaluation Reports (9 @ 60% for training in the present grade and 6 @ 40% for trainings in the preceding grades)		15%	

If an officer has earned good reports for SMC, MCMC and pre-service training his marks for training evaluation will be:

Marks for training in BS-19 @ 60%	=	6.53	(As per Table-A of Instructions)
Marks for trainings in BS-18 & BS-17 @ 40%	=	4.35	(As per Table-A of Instructions)
Total score for training evaluation	=	6.53+4.35 = 10.88	
Evaluation by PSB		15%	

If an officer is awarded 10 marks by the PSB, his efficiency Index shall be as under:-

49.87+10.88+10 = 70.75

The minimum required threshold of marks for promotion to BS-20 is 70.

(Authority; letter No. SOE-III (E&AD)1-3/2008 dated 28th January, 2009)

INSTRUCTIONS FOR GUIDANCE

While filling in the quantification Form overleaf and working out quantification marks the following factors may be kept in view to avoid error:-

(i) The annual confidential reports carry marks as under:-

		Upto 11th June, 2008	From 12th June, 2008
1.	Outstanding	--	10 Marks
2.	Very Good	10 marks	8 marks
3.	Good	8 marks	7 marks
4.	Average	5 marks	5 marks
5.	Below Average	1 mark	1 mark

(ii) **Deduction** is to be made from the total of 'Overall marks' as indicated below:-

(a) One mark for each adverse report;
(b) 3 marks for each minor penalty imposed on a civil servant in a disciplinary case under E&D Rules, 1973;
(c) 5 marks for each major penalty imposed on a civil servant in a disciplinary case under E&D Rules, 1973.

(iii) Addition of 2 marks is to be made for service in a (specified training) institutions for a period of two years or more.

(iv) If more than one confidential reports have been initiated on an officer during the calendar year, their average marks would be the marks for the whole calendar year.

(v) Writing of a Confidential Report covering part periods of two calendar years is not permissible.

(vi) If a period of report is less than 3 months, it shall be ignored for purposes of quantification.

(vii) Quantification marks should be in round figure.

(viii) If the overall grading in a CR is ambiguous e.g. placed between 'Good' and 'Average' the quantification will be based on the lower rating.

(ix) Where only two reports or less are available on an officer against posts in a particular basic pay scale, these CRs will be added to the CRs earned to the lower post for calculating the average marks.

(x) Where an officer appointed to a higher post on acting charge basis is considered for regular promotion that post, the CR earned during acting charge appointment will be added to CRs earned in the lower post for calculating average marks.

Revision of the policy for grant of BS-21 and BS-22 to technical and professional officers on the basis of meritorious services.

I am directed to refer to the subject cited above and to state that in consonance with the procedure devised by the Federal Government with the approval of the Prime Minister of Pakistan, criteria for grant of BS-21 and BS-22 on account of meritorious Services to Technical and Professional Officers has been revised as follows:-

a) Officers be considered for grant of BS-21 & BS-22 on the basis of meritorious service in order of seniority.

b) P.E.Rs. should be quantified in present and previous scales as per existing promotion policy and assigned a weightage of 70%.

c) Training from NIPA, Staff College and National Institutes of Management may be given 15% weightage. In case the training information/requirements is not relevant, overall professional competence be judged and notional marks be assigned on the basis of his previous record.

d) Minimum of 3 years active service in BS-20 for BS-21 & 5 years active service in BS-20 & above including 3 years in BS-21 for BS-22 will be required excluding the period of long leave (4 months or more).

e) The special Selection Committee shall scrutinize Significant contribution of the Technical and Professional Officers in their relevant fields of specialization, consulting Secretary concerned and Head of Offices/ Organizations about the background, level of competence and general reputation and allocate marks out of 15 to the officers being considered for grant of BS-21 and BS-22 on the basis of meritorious services.

f) Minimum threshold in this way shall be 75% marks.

g) The Proforma I, II, III, are also forwarded to be filled in by the Departments with the request to furnish the same along with present sanctioned strength of the officers in BS-20.

(i) The Departments may also indicate the name, designation & date of availing BS-21 or 22 on meritorious basis (if availed previously).

2. I am further directed to request that working paper may please be prepared as per criteria and procedure of the Federal Govt and endorse Proforma and furnish to this Department alongwith sanctioned strength of the officers in BS-20 please. The above requisite information may also be forwarded to this Department.

(Authority; NO. SO(E-I)E&AD/9-133/09, Dated 3rd November 2009)

Proforma-I

GOVERNMENT OF N.W.F.P.

DEPARTMENT ______________________

PROFORMA FOR SUBMISSION OF PROPOSALS FOR GRANT OF BS-21 OR BS-22 TO TECHNICAL AND PROFESSIONAL OFFICERS.

Sanctioned Strength of posts

S.No.	Particulars of posts/ officers as on	Department	Attached Department	Provincial Subordinate Offices	Total Col 3,4 & 5
1	2	3	4	5	6
I	Total number of technical/ professional posts sanctioned in BS-21.				
II	Total number of technical/ professional posts sanctioned in BS-20				
III	Total number of officers holding technical/professional posts in BS-21 on regular basis.				
IV	Total number of officers holding technical/professional posts in BS-20 on regular basis.				
V	Pool posts @ 12.5 of the total number of posts in BS-20 (i.e. of (ii) above)				

To be signed by Head of
Administrative Department

Photo

Proforma-II

Panel Proforma for grant of BS-21/22 to BS-20/21
Technical and Professional officers on account of
meritorious Services as on __________

Name of officer		Date of birth		
Domicile		Seniority No.		
Service/cadre to which he belongs		Nomenclature & BS of the post held & date of regular appointment		
Technical Qualifications and experience prescribed in the Recruitment Rules for the post.		Technical/Professional Qualifications & experience possessed by the officer.	Add as Annex-I if required	
Job description of the post held by the officer.		Performance indicators prescribed for the post	Add as Annex-II if required	
The achievements of the officer in specific measurable terms during last 03 years.	Add as Annex-III if required	Particulars of publications. Details of research papers/ books authored by the officer with the name of journals in which research papers were published.	Add as Annex-IV if required	
Reasons for which the officer is to be considered as specially meritorious	Add as Annex-V if required	Details of significant contribution made by the officer in his field of specialization.		

SERVICE PARTICULARS

Date of joining Government service	Date of promotion in Lower Ranks				Length of Service						Eligibility for consideration
	Present Scale BS-20	BS-19	BS-18	BS-17	Service in the cadre		In the present cadre		Total		
					Y	M	Y	M	Y	M	

IMPORTANT APPOINTMENTS HELD IN THE PRESENT RANK

S.NO.	POST HELD	S.NO.	POST HELD
1		2	

Penalties (if any)		
Training courses (other than Mandatory Training, if any)		
Grading of Mandatory Training at NIPA/SMC, if done		

NUMBER OF PERS						
Basic Scale	Outstanding	Very Good	Good	Average Reports	Below Average	Adverse Report/ Remarks in BS-19

Awaited Reports(PERs)	Additional Information

EFFICIENCY INDEX			
Required Threshold	Score of PERs & Training Reports	Marks awarded by SSC	Total
75			

Recommendations of Special Selection Committee		
Promoted	Deferred	Superseded

Checked by
(Deputy Secretary or Equivalent)

Prepared by
(Section Officer or Equivalent)

PROFORMA-III

PER GRADING & QUANTIFICATION FORM

Name :

Year	Post held	Min/Divn/ Deptt	Period of PER		PER's Assessment		Fitness for promotion	Score
			From	To	By RO	By CO		
Previous Scale (Scale BS-19/20)								
								Aggregate score

CALCULATION OF SCORE							
A. PERs Quantified Score 60 : 40 @ 70%	Basic Scale				Aggregate Score	Weightage Factor	Points Obtained
	Present Scale						
	Previous Scale						
	i. Additions ii. Deletions						
	Total (A)						
B. Training: @ 15%	NIPA/NMC						
	LHR	KAR	QTA	PSH			

Checked by
(Section Officer or Equivalent)

Prepared by
(Superintendent or Equivalent)

Countersigned by
(Deputy Secretary or Equivalent)

Re-allocation of posts for grant of BS-21 on meritorious service to professionals/technical officers.

I am directed to refer to this Department's letter of even No. dated 3.11.2009 on the subject cited above and to state that the competent authority has desired to re-allocate the posts of BS-21 on meritorious service basis.

2. In view of the above, it is requested to kindly provide the following information with documentary proof for further necessary action:-

(i) Number of sanctioned posts in BS-20 and occupancy report with necessary clarification.

(ii) Proposals of the respective department (if any) regarding re-allocation of posts for grant of BS-21 on meritorious services basis.

(Authority: No.SO(E-I)E&AD/9-133/2010, dated 3rd May 2010)

Appointment against higher posts in own pay scales.

Appointments in higher grades.

A number of cases have come to notice where Ministries/Divisions and Provincial Governments have made appointments of officers serving under them to posts in higher grades without the prior approval of the competent authority or going through the prescribed selection procedures. This grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan versus Qazi Abdul Karim. In future such vacancies will be reported to the Establishment Division so that eligible officers may be considered and recommended for promotion by the Competent Authority in accordance with the Rules.

2. The President has been pleased to direct that appointments of officers of lower grades to posts in higher grades without going through the prescribed selection process, must cease with immediate effect. The Ministries/Divisions and Provincial Governments can only fill vacancies in a particular grade by officers of the same grade and officers in a junior grade will not be appointed against a vacancy in a higher grade. If it is necessary to do so due to exigencies of service, the post should be downgraded with the approval of the Establishment Division. When making such a request it will be clearly stated why the vacancy should not be referred to the Central Selection Board/High Level Selection Board/appropriate Departmental Promotion Committee for the promotion of an eligible officer to fill the vacancy in the appropriate grade in accordance with the rules.

(Authority: O.M No.2/25/69-C.I, dated 31.7.79, circulated by S&GAD NWFP
vide letter No.SORI(S&GAD)1-29/75(KW), dated 20.8.79)

Appointment in Higher Grades/Posts.

Instances have come to notice of Federal Government where civil servants have been appointed to higher posts and subsequently these posts have been downgraded retrospectively and without the prior approval of the competent authority. This is not in keeping with the Establishment Division OM No.2/25/69-CI, dated 31st July,1979 circulated vide S&GAD circular letter No.SORI (S&GAD)1-29/75(KW),dated 20th August,1979. It is, therefore, reiterated that whenever a post is required to be downgraded due to exigencies of service, it may please be referred to this Department for approval.

2. Besides, all cases in which action may have been taken in contravention of the instructions issued on the subject may please be referred to the S&GAD for final orders.

(Authority: Letter No.SORI(S&GAD)1-29/75, dated 14.9.1985)

Appointment in Higher Grades/Posts.

Instances have come to the notice where civil servants in lower grades have been appointed to higher posts but the posts have not been downgraded with the result that the concerned civil servants come up with requests for promotion benefits in view of the decision given by the Supreme Court of Pakistan in the case of `Government of Pakistan Versus Qazi Abdul Karim'. This is in contravention of the above instructions which is not desirable administratively.

2. It appears that either the aforesaid instructions have been lost sight or these instructions have not been brought to the notice of all concerned. It is, therefore, re-iterated that the Provincial Government can only fill vacancies in a particular grade by officers of the same grade and officers of junior grade will not be appointed against a vacancy in a higher grade. If it is necessary to do so, due to exigencies of service, the post should be downgraded with the approval in the first instance of the S&GAD who will seek approval of the Finance Department.

3. This issues with the concurrence of Finance Department.

(Authority:Letter No.SORI(S&GAD)1-29/75, dated 25.2.1986.)

Appointment in Higher Grades/Posts.

The President directed that appointment of officers of lower grades to posts in higher grades without going through the prescribed selection process must cease and that vacancies in a particular grade shall only be filled by officers of the same grade. It has been reported that these instructions are not being followed by some of the departments and Civil Servants in lower grades continue to be appointed against posts in higher scales without downgrading them.

2. While replying to Supplementary question on 21st October,1987, the Chief Minister, NWFP was pleased to give an assurance to the Provincial Assembly to the effect that as per instructions already issued by Government to all Departments, no officer in lower grades shall henceforth be posted against vacancies in higher grades and that all such posts shall in future be filled in on regular basis by way of promotion or through initial recruitment, as the case may be, in accordance with the prescribed manner.

3. I am, therefore, to request that the above instructions may kindly be brought to the notice of all concerned once again and that they may be directed to abide by these instructions in letter and spirit.

(Authority:Circular letter No.SORI(S&GAD)1-29/75,dated 19.11.1987)

Appointment against higher post

A point has been raised by the District Accounts Officer, Mansehra whether a higher post can be filled in for indefinite period by appointment of an incumbent holding lower post without having relevancy to the nature of duty and basic qualification of the post etc or otherwise?

2. In this connection attention is invited to the Government of NWFP S&GAD's Circular letter No.SORI(S&GAD)1-29/75(A), dated 5th July,1994 wherein the position has fully been explained. However, the point has carefully been re-examined in the Finance Department. At the very outset it is made clear that for all intents and purposes, the NWFP Civil Servants Act, 1973 being the latest instrument, duly approved by the NWFP Provincial Assembly and the NWFP Civil Servants (Appointment, Promotion & Transfer), Rules,1989 which have been framed under Section 26 of Act ibid have to be followed in the matter of appointments.

3. Under Section 5 of the NWFP Civil Servants Act,1973, the appointment to a Civil Service of the Province or to a post in connection with the affairs of the Province shall be made in the prescribed method by the Governor or by a person authorised by the Governor on that behalf.

4. Under Rule 3 (2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules,1989,the method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the department concerned in consultation with Services & General Admn. Department and Finance Department.

5. Under Rule 10(3) of the above mentioned Rules, a candidate for initial appointment to a post must possess the educational or technical qualifications and experience.

6. The appointment by initial recruitment to a higher post or to a different post has to be made strictly in the prescribed manner and any deviation would not be in accordance with law and rules on the subject. The phrase "adjustment" is also not covered under the above rules. Moreover, an opportunity of appointment against a higher post is available to serving Government servants and they in accordance with the provisions contained in Rule 9 of the NWFP Civil Servants (Appointment, Promotion and Transfer), Rules,1989 can be appointed on Acting Charge or Current Charge basis.

7. In the circumstances, the reply to the point as raised in para-1 above that whether a higher post can be filled in for indefinite period by appointment of an incumbent holding lower post without having relevancy to the nature of duty and basic qualification of the post etc is in negative.

(Authority: Finance Department's Circular letter No.FD/PRC-5-1/96-97, dated 29.4.97 and re-circulated by S&GAD vide letter No.SORI(S&GAD)1-29/75(B), dated 10.5.1997)

Unauthorised appointments to higher posts.

In continuation of Establishment Division's O.M No.2/25/69-C.I, dated 31.7.1979, the undersigned is directed to say that it has been observed with regret that despite repeated instructions issued by the Establishment Division regarding appointment of Government servants against higher posts other than in accordance with rules and prescribed procedure,

Ministries/Divisions and Departments of the Federal Government and the Provincial Governments (in the case of officers belonging to Occupational Groups controlled by the Establishment Division) continue to make appointments to higher posts occasionally in disregard of the above instructions. Officers appointed to higher posts without going through the prescribed selection process and approval of the competent authority claim pay and allowances of the higher posts on the basis of judgements of the Federal Service Tribunal and the Supreme Court of Pakistan in a number of such cases. This places the Government in an awkward position as pay and allowances of the higher posts have to be allowed to individuals who have not been regularly promoted and who are some time not even qualified or eligible for promotion. It also causes heart burning and resentment among their seniors who were serving elsewhere or were bypassed at the time of making such irregular appointments.

2. While such irregular appointments are claimed to be made in public interest and under unavoidable circumstances, it has once again to be emphasized that appointments to higher post in disregard of the prescribed rules and procedure should be avoided under all circumstances. Various provisions already exist in the rules for making appointments on acting charge, current charge and additional charge basis, to tide over temporary difficulties. It is therefore again reiterated that in future appointments against higher posts should only be made either on a regular basis in the prescribed manner, or on acting charge or current charge basis in accordance with the provision of Civil Servants (Appointment, Promotion & Transfer), Rules, 1989 and relevant instructions issued by the Government from time to time.

3. Disregard of the above instructions would be viewed seriously and may result in bringing the matter to the notice of the Prime Minister.

(Authority:Estt:Division OM No.14/4/86-R.I, dated 2.5.1988 circulated by NWFP vide Circular letter No.SORI(S&GAD)1-29/75,dated 23.5.1988)

Unauthorised Appointments to Higher Posts.

This Department's Circular letter of even number dated 23.5.1988, on the subject cited above, which clearly provides that the appointments against the higher posts should be made in the manner prescribed in the rules for those posts. Notwithstanding this, instances have come to the notice that un-authorised appointments to higher posts without going through the prescribed selection process or obtaining approval of the competent authority are being made by Provincial Government Departments. This creates embarrassing position when the officers concerned prefer claim for pay of the higher posts.

2. I am directed to request you once again to strictly follow the instructions as referred to above while making appointments against higher posts. In future, no claim of pay of higher post in cases of un-authorised appointment will be considered by S&GAD.

(Authority:Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993)

Irregular Appointments to various Posts/Services

NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and other ancillary instructions issued by the Provincial Government provide that initial appointments

to posts/services in various Departments, Attached Departments and subordinate offices shall be made keeping in view the following**:-**

(1) A selected candidate must possess the qualifications and experience prescribed for the post under the relevant rules;

(2) The vacancies in Grades 5 and above should be advertised in leading newspapers;

(3) The appointment is to be made on the recommendations of a broad based prescribed Departmental Selection Committee;

(4) The zonal allocation formula prescribed vide S&GAD's Notification No.SOS.III(S&GAD)3-39/70,dated 2nd October,1973 as amended from time to time has to be followed;

(5) The selection for appointment should be made with regard to the criteria for initial recruitment as laid down by the Government from time to time; and

(6) An overage person should not be selected and appointed when a sufficient number of qualified and within age candidates are available.

2. It has, however, been observed from the report of the Committee appointed by the Government to probe the cases cited as subject that in almost all the departments, appointments to the various posts were made without application of the provisions of the relevant Service Rules and observance of the instructions issued thereunder.

3. It has, therefore, been decided by the Provincial Government that all appointments, promotion will, in future, be made by the competent authorities only after strictly observing all requisite codal formalities and the provisions of Rules of Business, 1985 in general and the sub-rules (5) and (6) of Rule 5 in particular, are strictly observed by all concerned in future .

4. It is requested to please ensure that all concerned abide by the aforesaid decision both in letter and spirit.

(Authority:-S&GAD's letter No.SORI(S&GAD)1-73/88, dated 23rd October,1988).

Appointment on Acting Charge Basis.

This Department Circular letter No.SORI(S&GAD)1-206/74, dated 15th August, 1981, as amended vide this Department's letter of even number dated 17th October,1984 and Ist December,1987, on the subject cited above and to say that in partial modification of the said orders it has been decided that the service rendered on acting charge basis in respect of appointments falling under rules 8-B(1) and 8-B(3) of Civil Servants (Appointment, Promotion & Transfer) Rules,1989 count in the pay scale applicable to the post for the purpose of accrual of increments, subject to the fulfillment of the following**:-**

i) In case of acting charge appointments to posts carrying BPS-18, the incumbents shall have completed 5 years service in BPS-17.

ii) In case of acting charge appointments to posts carrying BPS-19 and above the incumbents shall have completed the prescribed length of service for respective posts as under**:-**

a) Posts in BPS-19 12 years service in BPS-17 and above.
b) Posts in BPS-20 17 years service in BPS-17 and above.

c) Posts in BPS-21 22 years service in BPS-17 and above.

Provided that**:-**

i) Where initial appointment of a person not being a person in Government service takes place in a post in BPS-18,19 or 20,the length of service specified in this Department letter No.SORI(S&GAD)1-29/75,dated 23.2.1981 shall be reduced by the following periods:

First appointment in	Reduced by
BPS-18	5 years.
BPS-19	12 years.
BPS-20	17 years.

ii) Where initial appointment of a person already in Government service takes place, on recommendations of the Public Service Commission, in a post in BPS-18,19 or 20, the length of service specified in above letter shall be reduced by the periods specified in proviso (i).

2. The above decision shall be effective from the First January 1985. However, in cases of acting charge appointments made during the period from 12.1.1981 to 31.12.1984, the increments shall be restored from the due dates but no arrears due on account of restoration of increments prior to 1.1.1985 shall be allowed.

3. This issues with the concurrence of Finance Department.

(Authority:Circular letter No.SORI(S&GAD)1-206/74(IV),dated 17.2.1988)

Posting of Junior Officers on Posts in Higher Scale

This Department's Circular letter No.SORI(S&GAD)1-29/75(A), dated 13.2.1993,on the subject noted above and to state that it has been noticed that certain Provincial Government Departments are resorting to the practice of posting officers in a lower scale on posts in higher scales. This practice is against the provisions of NWFP Civil Servants Act,1973 and rules made thereunder as well as the instructions of the Establishment Division reproduced below**:-**

> "The grant of higher appointments to junior officers against senior posts amounts to accelerated promotion in view of the decision given by the Supreme Court of Pakistan in the case of Government of Pakistan Versus Qazi Abdul Karim. The Ministries/Divisions or Provincial Governments can only fill vacancies in a particular grade by officers of the same grade, and officers in a junior grade will not be appointed against a vacancy in a higher grade".

2. It may be pointed out that in the light of rule 9 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules,1989, the methods prescribed for posting a junior officer to a higher post are restricted to the following only**:-**

i) <u>ACTING CHARGE APPOINTMENT AGAINST A HIGHER POST</u>

Where the senior most officer in a cadre is otherwise fully eligible for promotion but does not possess the specified length of service, the competent authority may appoint him to the higher post on acting charge basis, but only on the recommendation of Departmental Promotion Committee/Selection Board and subject to the condition that such officer lacks the prescribed length of service not more than (one year).

ii) <u>CURRENT CHARGE APPOINTMENT OF A HIGHER POST</u>

Only the senior-most officer of a cadre can be given current charge appointment of a higher post with the approval of the competent authority. However, this can only be an arrangement upto a maximum of six months.

iii) <u>ADDITIONAL CHARGE APPOINTMENT OF AN EQUIVALENT POST</u>

An officer can be given the additional charge of a second post but only of a post in an equivalent grade, upto a period of six months by the competent authority.

3. Adherence to the above rules is a legal requirement so that the actions taken by officers are not held at any stage to be irregular. Also, appointments in violation of the rules constitute administrative indiscipline.

4. I am, therefore, directed to request that all such cases of irregular appointments be reviewed and ensure not to resort to such appointments that violate the provisions of the Civil Servants Act and the statutory rules framed thereunder.

5. I am further directed to request that these instructions may be brought to the notice of all concerned for strict compliance.

(Authority:Circular letter No.SORI(S&GAD)1-29/75(A), dated 5.7.1994).

Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act,1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government**:-**

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants

ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.

iii) All contract Government employees appointed against specific posts, can not be posted against any other post.

iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.

V) [79][ ]

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79 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business,1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

vi) [80]While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.

vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

viii) No posting/transfers of the officers/officials on detailment basis shall be made.

ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.

x) All the posting/transferring authorities may facilitate the posting/ transfer of the unmarried female government Servants at the station of the residence of their parents.

xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

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80 Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20th March, 2010.

[81]DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	 Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.

b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

[81] Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule – IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	**Officers**	**Authority**
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed/ implemented.

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/ Transfer.

(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

[82]PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy is as follows:-

i) All placements would be made on the basis of merit and keeping in view the needs of the organization.

ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.

iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.

iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

   a) Permanent posting of an officer to the training institutions for 2-3 years;

   b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;

   c) Earmarked as a visiting faculty member for specific subject.

v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;

vi) The Normal tenure of posting as already provided in the policy would be ensured;

vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;

viii) No participants will decline/represent against his/her posting.

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[82] Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dated 9-2-2007

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar,________________

NOTIFICATION

NO.______ The Competent Authority is pleased to order the transfer of Mr. ______________________ Department and to post him as __________________________________ in the interest of public service, with immediate effect.

CHIEF SECREARY
GOVERMENT OF NWFP

Endst. No. and date even.
Copy forwarded
1.
2.
3.
4.

(NAME)
SECTION OFFICER
Administrative Department

(Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006)

The competent authority has been pleased to direct that Para 1(v) of the Posting/ Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out posting/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and sprit in future so as to keep good governance standard in this regard.

(Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008).

The Chief Minister NWFP has directed that:-

i) Submission of summary would not be required in case of mutual transfer.

ii) Posting/transfer shall be made according to the policy;

iii) Government Servants shall avoid direct submission of applications to the Chief Minister;

iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned Govt servants shall be proceeded against under the prevalent rules and regulations.

(Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006)

It has been decided with the approval of the competent authority that:-

i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;

ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

(Authority: -Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005)

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved/prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be

proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

(Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007)

Posting/transfer from FATA and vice versa.

I am directed to refer to the subject noted above and to state that the Centrally Administered Tribal Areas (Employees' Status) Order 1972 (President's Order No. 13 of 1972) provides that:

> "Notwithstanding anything contained in their condition of service, the employees shall from the appointed day, be the employees of the Provincial government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their service after the appointed day".

2. According to the Posting/Transfer Policy of the Provincial Government, the Governor NWFP and the Chief Secretary NWFP are the competent authorities for posting/transfer of Civil Servants in BS-18 and above and up to BS-17 respectively. The policy prescribes two years normal tenure of posting in FATA. Similarly, it is obligatory for all the Provincial Government employees who have been selected against Zone-I/FATA Quota to compulsorily serve in FATA for at least eighteen months.

3. It is evident from the above that employees serving in FATA are under the administrative control of the Provincial Government. However, after establishment of FATA Secretariat, it was felt imperative to have linkage between the Provincial Departments and the FATA Secretariat so that public service delivery does not suffer due to frequent reshuffling of staff without knowledge of that Secretariat.

4. Taking cognizance of frequent posting/transfer of officers/officials from FATA to settled areas and vice versa by the respective Departments without prior consultation with the FATA Secretariat, it was emphasized on all the Administrative Departments, vide circular letter No SO(E-I) E&AD/9-126/2006/Vol-II dated 26th January, 2007 that the said Secretariat should invariably be consulted before issuing orders of Posing/Transfer of Government Servants from and to FATA. However, the FATA Secretariat have frequently conveyed their apprehensions that these instructions are not being followed, and at times a very embarrassing situation for the FATA Secretariat is created as work suffers due to shortage of staff which becomes a serious issue in the prevailing law and order situation in FATA.

5. In view of above, it is reiterated that:-

(i) All Provincial Government Departments are directed to move proposals for posting out of an employee from FATA only when a substitute is proposed in the same case.

(ii) On consent from the FATA Secretariat and approval of the proposal by the competent authority, the substitute to FATA would invariably give his arrival for duty before the employee being transferred out of FATA is relieved.

(iii) Provincial Government Departments may not accept the arrival report of an employee transferred out of FATA till his proper relieving order is issued by the FATA Secretariat.

(iv) The Accountant General (PR) is also requested that Last Pay Certificate of an employee transferred out of FATA but not relieved properly by the FATA Secretariat may not be issued in any circumstances.

(v) Instruction issued vide letter No.SO (E-I) E&AD /9-126/2006/Voll-II dated 26th January, 2007 (quoted in Para-4 above) should be followed strictly.

(vi) No NOC in respect of transfer from FATA to settled area issued by any Head of Line Department of FATA Secretariat should be accepted. Only those NOCs, which have been issued by the Administration & Coordination Department, FATA Secretariat, should be considered.

(vii) Tenure of Civil Servants must be kept in view while issuing NOC for posting/transfer or considering postings/transfers.

(viii) No NOC's should be issued in respect of employees in BS-1-15 who is from agency cadre and in whose respect Political Agent and Agency officer have been declared as appointing authorities.

(ix) Persons appointed in agency cadre, if appointed in the settled areas will resign from service in FATA and will resume service in settled arrears as a fresh candidate.

(x) NOCs may be issued in respect of employees of the Provincial cadres i.e. BS-16 and above only after completion of their normal tenure and they shall not be transferred out of FATA unless their substitutes are provided simultaneously.

6. It is requested that the above Policy may be followed in letter and spirit, in further, in public interest.

(Authority: No. SOR-VI/E&AD/1-4/2008-Vol:VII Dated Peshawar, 30th March, 2009)

Change in policy to fill vacant posts in FATA to ensure better human resource management

I am directed to refer to the subject and to state that the competent authority has been pleased to make following changes to the posting/transfer Policy of the Provincial Government in respect of candidates selected from Zone-I (FATA:-

a) Every civil servant recruited against Zone-I by Public Service Commission shall directly report to FATA Secretariat. A copy of the joining report shall be submitted by the recruited officer to FATA Secretariat who shall endorse it to the concerned administrative department in the Provincial Government. The FATA Secretariat shall arrange medical and security clearance and thereafter submit a case through the respective administrative department seeking approval of the appointing authority. The appointment letter shall be issued by FATA Secretariat

on behalf of the respective administrative department. Posting orders shall also be issued by FATA endorsing copies to the respective department where personal file of the civil servant is to be maintained. This arrangement shall be confined to recruitments made in BS-16 and 17 but shall exclusive PMS.

b) In case of disciplinary action, while the appointing and appellate authorities shall remain the same charge sheets/statement of allegations and show cause shall be prepared by FATA Secretariat and submitted in the form of a summary through Establishment Department. Leave accounts and GP Fund withdrawals shall also be dealt by FATA Secretariat based on the codal formalities as observed by the Provincial Government Departments.

c) Copies of all necessary orders in respect of such officers/officials made by FATA Secretariat shall be endorsed to respective administrative departments for record.

(Authority; letter No.SOR-VI/E&AD/1-10/2009, dated 30th July, 2010)

Guidelines for transfer/posting of Naib Tehsildars/ Political Naib Tehsildars / Assistant Political Agents.

I am directed to refer to the subject and to say that the competent authority has been pleased to approve the following guidelines for posting/ transfer of Naib Tehsildars/Political Naib Tehsildars/Assistant Political Agents:-

i. The proposal will be initiated by the respective Political Agent or DCO and addressed to the concerned commissioner. If there is no disagreement the proposal will be forwarded to FATA Secretariat for further processing.

ii. In case of disagreement, Commissioner will try to find a consensus candidate in consultation with Political Agent or DCO. However, if disagreement continues FATA Secretariat will make the final decision.

iii. Political Agent/DCO will ensure that while proposing the officer for transfer/posting all the stakeholders have been consulted, particularly the LEAs who are conducting active operations in the tribal belt these days.

iv. It should be ensured that the officers are not posted to the same appointments repeatedly; and that the proposal is purely based on merit and has not been influenced by the outside elements.

v. The service profile of the proposed officer needs to be attached with every proposal.

vi. Posting of officer from Hard area to Soft area or vice versa should be one of the factor in determining the suitability.

vii. A routine tenure may be respected. However, due to the current situation in FATA there are cases of burnt out due to continuous emergent duties. In such circumstances an officer may be recommended for posing before the normal tenure.

viii. Political Tehsildars (PT)/Naib Tehsildars (NT) will not stay in the same division for more then five years continuously and may only be posted back to the same Division after serving minimum of three (3) years in any other Division.

2. It is requested that above guidelines may be followed in letter and spirit, in future, in public interest.

(Authority; letter No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII, Dated 10th February, 2010)

Inter Provincial Transfer

Attention is invited to Rule-8 of the NWFP, Civil Servants(Appointment, Promotion and Transfer) Rules,1989 where under Inter-Provincial Transfers of employees in BPS 1 to 15 and 16 and above are permissible subject to the fulfilment of conditions laid down in the aforesaid rule. However, in most of the cases, the requests for Inter-Provincial Transfers are not strictly scrutinized in the light of the aforesaid rules which creates not only embarrassment for the S&GAD but also causes delays in finalizing of such cases.

2. While examining cases, it has been noticed that inter-provincial transfer results in an over all increase of officials in the NWFP, which is against the downsizing policy of the Government. The un-employment situation in NWFP is more acute than in any other province. Large scale transfers of officials from other provinces would also deprive the people of NWFP from employment in other Provinces. It may, therefore, be necessary to restrict the inter-provincial transfers to very exceptional cases where a strong humanitarian ground exists or where technical expertise, which is not available in the province, is required.

3. It is requested that the provisions of Rule-8 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 may be observed strictly while recommending cases of inter-provincial transfers, with full justification for consideration of the competent authority.

(Authority:S&GAD's letter No.SORI(S&GAD)2-27/86, dated 1.11.1997)

Identification of Unattractive/Hard Areas policy;

I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-alia approved the following for the purpose of Posting/ Transfer Policy:-

1. The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas.

2. Existing list of FATA areas be retained.

3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

    a. Kohistan District.
    b. Tank District.
    c. Chitral District.
    d. Battgram District.
    e. Shangla District.
    f. Hungu District.
    g. PATA areas of Mansehra (Kala Dhaka)

Tenure of posting.

i. The erstwhile normal tenure of 2 years be retained.

ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.

iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.

iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

(Authority; letter No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII, Dated, 10th April, 2010)

WEST PAKISTAN CIVIL SERVICES
(APPLICATIONS FOR POSTS) RULES,1957.

In exercise of the powers conferred by sub-clause(b) of clause(2)of Article 182 of the Constitution of Pakistan and in supersession of all previous orders on the subject, the Governor of West Pakistan, is pleased to make the following rules**:-**

1. **Short title:-** These rules may be called the West Pakistan Civil Services (Applications for Posts)Rules,1957.

2. **Eligibility:-** No Government Servant shall be eligible for appointment to any service of the Province or to any post in connection with the affair of the Province, other than the service of the post to which he is for the time being appointed, unless he applies with the permission, in writing of the head of office or department in which he is employed.

3. **Application for competitive examinations:-**If any Government servant applies for permission and is otherwise eligible to appear at a competitive examination to be held by a Provincial (or the Central) Public Service Commission, his application shall be forwarded:

(a) always, if it is in connection with an examination for recruitment to a ministerial service; and

(b) twice, but not more than twice, if it is in connection with any other examination.

4. **Release on Selection for Appointment to a post for which application has been forwarded:-**When a person whose application has been forwarded to the appointing authority or a Public Service Commission in accordance with these rules, is selected for appointment, he shall ordinarily be released.

5. **Application made before joining Government Service:-**If any person, who before appointment to any service of the Province or to any post in connection with the affairs of the Province, has appeared at any competitive examination or has applied for a post elsewhere and is, as a result, offered a post higher than the one to which he is for the time being appointed, he shall be released to join such service or post.

6. **Employment in other Departments of Government or under another Government:-**A Government servant shall not apply for any appointment in another office or department of Government or under another Government unless the head of such office or department or such other Government has invited applications for the post, provided that in the case of an appointment for which applications are not ordinarily invited, a Government servant may inform the authority, which makes the appointment, by a letter submitted through the appointing authority of his own post or service, that he wishes his name to be considered.

7. **Temporary Government servants:-** If a temporary Government servant (other than an Accountant or Stenographer)or employee of the Health, Irrigation, Electricity or Building and Road Department who is not likely to be employed permanently in the office or department in which he is employed, applies for a permanent post elsewhere his application shall not be withheld.

8. **Permanent Government Servants and Certain Temporary Government Servants:-** A permanent Government servant employed in any service of the Province, who is not covered by any of the foregoing rules and a temporary Accountant, Stenographer or employee of the Health, Irrigation, Electricity or Building and Road Department may ordinarily be permitted to apply twice, and not more than twice, in any calendar year for a post to appear in an examination for a post or for the transfer of his services to a post in the Central Government or a Statutory Corporation constituted by the Government of West Pakistan or any other Provincial Government or the Central Government, unless the head of that office or department in which he is employed considers that the grant of permission would be inconsistent with the public interest.

9. **Circumstances in which advance copies of application may be sent:-**Ordinarily an application for a post in respect of which selection is to be made by a Provincial (or the Federal Public Service Commission)shall be accompanied by permission in writing of the authority referred to in Rule(2). When however, there is likelihood that the last date prescribed for the submission of applications will expire before such permission can be obtained an advance copy may be submitted to the Commission. The candidature of such applicant will be treated as provisional until permission has been accorded under these rules. In the event of such permission not being granted, the Public Service Commission concerned will be informed immediately of the decision, so that the Commission may cancel the candidature of the applicant.

10. **Application for a higher post in the service or department:-**If a Government Servant, whether permanent or temporary, applies for a post advertised by the West Pakistan Public Service Commission, which is included in the same service in which he is for the time being employed or in a higher service of the same nature, his application shall not be withheld.

10A. **Application for service in Local bodies:-**A permanent Government servant employed in any service of the Province to any post in connection with the affairs of the Province, and a temporary Accountant, Stenographer or employee of the Health, Irrigation, Electricity or Building and Roads Department may ordinarily be permitted to apply for service under Local bodies unless the head of the office or Department in which he is employed considers the grant of permission would be inconsistent with the public interest.

11. **Application for private employment:-**(1) A Government servant shall not apply or accept private employment, without the previous permission, in writing of the appointing authority.

(2) An application for permission to apply for private employment shall not be entertained unless the appointing authority is satisfied, that no such employment having been secured, the resignation of the applicant can be accepted without detriment to the public service.

(3) If a Government servant who is refused permission to apply for private employment wishes to resign his appointment under the Government, the authority competent to accept his resignation, subject to any general or special law or order on the subject, may ordinarily accept the resignation but, where the authority is satisfied that the Government

servant in securing the private employment has taken advantage of his official position, it shall not accept the resignation.

(4) A Government servant who is permitted to apply for private employment, must, on accepting it, resign his appointment under Government. After such acceptance, he shall not be allowed any leave, nor shall be permitted to retain his lien on his appointment under Government.

(Authority: W.Pak.No.SRI/14-57,dated 26.4.1957)

Marriages with Foreign Nationals

Short title, application and commencement.

(1) These rules may be called the Government Servants (Marriage with Foreign Nationals) Rules, 1962.

(2) They shall apply to every person who is a member of an All-Pakistan Service or who is serving in a Civil capacity in connection with the affairs of the Federal Government, but shall not apply to any person who is employed on contract.

(3) They shall come into force at once.

2. **Definitions**-- In these rules, unless there is anything repugnant in the subject or context**:-**

(a) "Foreign National" means a person who is not a citizen of Pakistan;

(b) "Government Servant" means a person in the service of Pakistan to whom these rules apply whether such person is, for the time being on foreign service or not,

(c) "Marriage" means matrimonial relationship entered into in accordance with law for the time being in force or any religious rites or ceremonies, and its grammatical variations and cognate expressions shall be construed accordingly.

(d) (omitted).

3. **Marriage with foreign nationals prohibited :-**

(1) [83]Subject to the provisions of sub-rules (2), a Government Servant who marries or promises to marry a foreign national shall be guilty of misconduct and render himself liable to any of the major penalties under the Government Servants (Efficiency and Discipline) Rules, 1973.

(2) A Government servant may, with the permission of the Federal Government, marry or promises to marry a Muslim citizen of India.

(3) The grant of permission under sub-rule (2) shall be at the discretion of the Federal Government and may be subject to such conditions if any, as it may specify.

4. **Supersession of previous rules, notifications etc. ----**

These rules shall supersede all previous rules, notifications and instructions relating to the conditions of marriage of a Government servant.

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[83] Amended vide Establishment Division's Notification No.2/7/81-D-IV, dated 26.5.1981, as published in the Gazette of Pakistan (Extra Ordinary) dated 27.5.1981.

The West Pakistan Government Servants (Restrictions on Marriages with Foreign Nationals) Rules,1963

Short title, commencement and application:-(1) These rules may be called the West Pakistan Government Servants (Restrictions on Marriages with Foreign Nationals) Rules,1963

(2) They shall come into force at once.

(3) They shall apply to all Government servants under rule making authority of the Governor of West Pakistan other than the persons employed on contract basis.

2. **Definition:-** In these rules, unless the context otherwise requires, the following expression shall have the meanings hereby respectively assigned to them, that is to say-

(a) "Foreign national" means a person who is not a national of Pakistan.

(b) "Government" means the Government of West Pakistan;

(c) "Government servants" means a Government servant to whom these rules apply;

(d) "Marriage" means the matrimonial relationship entered into in accordance with any law for the time being in force or in accordance with any religious, rites or ceremonies and its grammatical and cognate expressions shall be construed accordingly; and

(e) "Misconduct" shall have the same meaning as assigned to it in the West Pakistan Government Servants (Efficiency and Discipline) Rules,1960.

3. **Prohibition on marriages with foreign nationals:-** Save as provided in rule 4, a Government servant who marries or promises to marry a foreign national shall be guilty of mis-conduct and shall be liable to be removed from service.

4. **Permission to marry a citizen of India:- ***(1) A Government servant may, with the prior permission of Government marry or promise to marry a person who is a citizen of India.

(2) The grant of permission under sub-rule(1) shall be at the sole discretion of Government and shall be subject to such conditions, if any, as may be specified by Government.

*Note:- This concession is also extended to the nationals of Bangladesh vide NWFP Notification No.SORI(S&GAD)4-1/80(Vol.III), dated 21.5.97

(Authority: Letter No.2/7/81-D-IV, dated the 30th July, 1981, from Govt. of Pakistan Cabinet Secretariat (Establishment Division).

MARRIAGE WITH FOREIGN NATIONALS BY THE GOVERNMENT SERVANTS

I am directed to state that an amendment has since been made in the Government Servants (Marriage with Foreign Nationals) Rules, 1962, vide Establishment Division's Notification No.2/7/81-D-IV, dated 26.5.1981, as published in the Gazette of Pakistan (Extra-ordinary) dated 27.5.1981, vide SRO-497(i)/81, that no Government servant is allowed to marry a foreign national, except a Muslim citizen of India with prior permission of the Government.

2. It has been decided that **:-**

(a) These Rules shall be equally applicable to the employees of the Provincial Governments, autonomous bodies of Federal and Provincial Governments and the taken-over organizations.

(b) Exceptions may be made in the case of officers who are serving autonomous bodies on contract basis.

(c) The statutory bodies like the State Bank of Pakistan etc. may be advised to adopt the Government Servants (Marriage with Foreign Nationals) Rules, 1962 as amended, for being made applicable to their employees.

(d) For marrying a Muslim citizen of India, the authorities to grant prior permission in consultation with the concerned Police/ Intelligence agencies, shall be the following **:-**

(i) Establishment Division in the case of all Government Servants in the Federal Govt.

(ii) Secretaries of the Provincial Services and General Administration Departments, in respect of Provincial Civil Servants and the APUG Officers serving in Provinces.

(iii) Heads of autonomous and taken-over organizations, either under the Federal or Provincial Governments, in respect of their own employees.

(iv) Cases of Government servants serving in the autonomous bodies shall be referred to their respective Government.

3. Provincial Governments, and Ministries/Divisions in the Federal Government, are requested to take action accordingly,

4. This cancels the Establishment Division's O.M. No.6/8/63-D-II, dated 18.6.1965.

Surplus Pool Policy

Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/ absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

a. Additional Secretary(Establishment) E&AD……Chairman.
b. Deputy Secretary LG&RD Department…………Member
c. Deputy Secretary Finance Department………….Member
d. Deputy Secretary(Establishment) E&AD……….Secretary

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

(a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.

(i) to proceed on retirement with normal retiring benefits under the existing rules;

OR

(ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/ department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

(i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.

(ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.

(iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.

(iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.

OR

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.

(v) [84]In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.

(vi) [85] Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

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[84] Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

[85] Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.

(d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.

(e) [86]Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.

(f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/ justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.

(g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/ Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

(a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.

(b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.

(c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.

(d) [87]In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

[86] (3) Sub para (e) added to para 5 vide circular letter No.SORVI/E&AD/5-1/2005, dated 19.1.2007.

[87] Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall loose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

(Authority: letter NO.SOR-I(E&AD)1-200/98, Dated 8th June, 2001)

Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.

ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.

iii) The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

iv) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.

v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.

vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.

vii) The LR&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.

viii) For adjustment of regular Class-IV (BS 1- 4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.

2. It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority; letter NO.SOR-I(S&GAD)1-200/98 (Vol.I), Dated 13th August, 2001)

Project Policy

Policy governing appointment against project posts.

In pursuance of the provisions of Section-25 of the NWFP Civil Servants Act, 1973 and in supersession of all instructions issued previously on the subject from time to time, the competent authority has been pleased to approve the following policy for compliance by all concerned in order to regulate appointments to posts in approved development projects under the Govt. of North West Frontier Province.

(1). SHORT TITLE AND COMMENCEMENT.

(i) This policy may be called the “NWFP policy regulating appointment to posts in development projects”.

(ii) It shall apply to all posts in the approved development projects funded fully or partially by the Provincial Government or controlled by the Provincial Government.

(iii) It shall come into force at once and shall not effect the terms and conditions of the staff already working in the projects.

(2). NOMENCLATURE, PAY SCALE / PAY PACKAGE OF THE POSTS.

(i) As far as possible, nomenclature of the posts should be such that exists in the regular service cadres of the Department and for which service recruitment rules have already been prescribed.

(ii) The educational qualification, experience, & age limit, scale of post, pay package, duration of appointment and responsibilities etc of each post sanctioned for the project shall be prescribed in the PC-I. In case the qualification, experience & age limit are not given in the PC-I, then this requirement shall be completed by the Administrative Department in an objective way.

(iii) Fixed pay package for project posts shall be sanctioned at the time of approval of PC-I with reference to the responsibilities attached with the post. Approximate fixed package with reference to various pay scales shall be as under:-

S.#	Pay Scale	Fixed Salary
1.	Posts equivalent to BS 1-4	Rs.7,000/-
2.	Posts equivalent to BS 5-10	Rs.10,000/-
3.	Posts equivalent to BS 11-16	Rs.15,000/-
4.	Posts equivalent to BS-17	Rs.25,000/-
5.	Posts equivalent to BS-18	Rs.40,000/-
6.	Posts equivalent to BS-19	Rs.60,000/-
7.	Posts equivalent to BS-20	Rs.80,000/-
8.	Posts equivalent to BS-21 & above	Rs.1,00,000/-

(3). PROCEDURE TO FILL THE POST.

If the competent authority decides to make appointment to a project post through initial recruitment, the following procedure shall be followed:-

(i) Applications for the posts shall be invited through wide publicity in the print media. The advertisement shall be published in at least two leading news papers having wide circulation as well as through official website.

(ii) A reasonable time not less than fifteen days may be given in the advertisement inviting applications for the posts to provide adequate opportunity to eligible candidates to apply and to ensure maximum competition. However, in urgent cases, time for inviting applications should not be less than seven days from the date of publication of the advertisement. In case the last date for receipt of applications falls on a public holiday, the last date shall stand extended to the next working day.

(iii) The terms and conditions for appointment particularly the nomenclature of the post, pay scale or pay package, duration and nature of appointment, duties and responsibilities as well as station of duty etc should be clearly advertised.

(iv) Applications received for the post shall be scrutinized by the short listing committee constituted for the purpose.(Para-8) The scrutiny will be carried out in the light of record furnished by the applicant with particular reference to his academic qualification, experience, professional skills, age limits and other conditions advertised for the post.

(v) The concerned department will prepare the lists of qualified and eligible candidates who will be called for test and interview by the concerned Selection Committee. Reasonable time may be given to the candidates to appear for interview. The names of those candidates who do not appear for interview shall be dropped from the selection process.

(vi) Selection Committee (Para-7) shall interview the qualified and eligible candidates and shall draw a merit list on the basis of academic qualification, experience, professional skills, and other conditions as well as marks obtained in the interview.

(vii) The list containing order of merit of the candidates must be signed by the members of the Committee including its chairman and forwarded to the Secretary of the department concerned to process case for approval of appointing authority.

(viii) The appointing authority shall approve appointment, in order of merit, on the recommendations of the Selection Committee and orders in this regard shall be issued accordingly. In case, the first candidate on the merit list does not join service within a period of one month, offer of appointment may be extended to the next candidate on the merit list.

(ix) Staff appointed by initial recruitment in a project shall not be entitled to pension or CP fund. They shall also not be treated as a "civil servant".

(x) Project employees will receive medical allowance as per medical attendance rules of the Provincial Government.

(xi) They shall be entitled to TA/DA in accordance with the TA rules of the Provincial Government.

(4). <u>DEPUTATION OF CIVIL SERVANTS TO PROJECT POSTS.</u>

In case the competent authority decides to fill a post by way of transfer of a regular civil servant on deputation basis, the procedure laid down in paragraph below shall be followed:-

(i) In case the post carries a definite pay scale and the competent authority decides to fill the post on deputation basis, from amongst the civil servants holding regular appointment in the same pay scale, a demand will be placed with the lending department to place the services of the civil servant concerned at the disposal of the Borrowing Department.

(ii) The Lending Department will consider the proposal and will normally allow the transfer of the civil servant on deputation basis. The lending department may, however, regret the proposal in the exigency of service and in public interest.

(iii) Civil servants appointed against project posts on deputation basis shall receive project allowance equal to one basic salary in lieu of deputation allowance.

(iv) In case of deputation of a Civil Servant to a project which is fully funded by the Provincial Government, the pension contribution will not be a liability on the project and the Provincial Government will continue to make its payment. However, in other cases and modes of deputation, the procedure in vogue regarding pensionary/ leave and other service liabilities of the civil servant shall be followed.

(v) During deputation, the Civil Servant may ordinarily vacate the officially allotted residential accommodation. In case they want to retain it, they shall pay house rent to the Government at market rates as prescribed by the Government from time to time.

(vi) Civil Servants who are in receipt of housing subsidy shall be entitled for the said facility even after their posting in a project.

(vii) The initial period of deputation shall be three years extendable for another two years on completion of which the deputationist shall be repatriated to his parent department.

(5). APPOINTMENT OF CIVIL SERVANTS TO PROJECT POSTS THROUGH COMPETITION.

(i) Any Civil Servant holding appointment on regular basis and possessing the minimum qualification, experience and fulfilling other conditions advertised, may apply for a project post through proper channel.

(ii) In case of shortage of time, a Civil Servant may forward an advance copy of the application for the post and simultaneously submit application to the departmental authority for permission which may be furnished before interviews for the post are held. If they could not produce departmental permission at the time of interview, they shall not be interviewed or considered for appointment to the post.

(iii) The department concerned of the Civil Servant shall process her/his application in time and may forward the same to the quarter concerned.

(iv) In case the Civil servant is appointed to the post in open competition, she/he shall obtain extra ordinary leave before joining the project provided he/she is entitled for EOL as per the NWFP Civil Servants (Revised Leave) Rules, 1981. Moreover, she/he shall relinquish charge after relieving by the competent authority so that her/his pensionary and other service liabilities are not accumulated against the Government for service rendered as such in the project.

(v) Civil servants passing through probationary period and those holding appointment on contract basis may apply for such posts but in case of their appointment, they shall resign from government service.

(vi) On joining the project post on availing Extra-Ordinary Leave (Leave without pay) the Civil servant may vacate government residential accommodation allotted to her/him in case the project station is not the same in which official residence has been provided to him. If she/he wants to retain it, she/he shall pay House Rent to the Government at market rate according to the prescribed procedure.

(vii) On completion of the project or its conversion into current budget, the services of the Project staff appointed on contract basis shall stand terminated. However, Government Servants serving in the project on deputation basis or on EOL (without pay) basis shall be repatriated to their parent department.

(viii) Performance Evaluation Reports of the Government Servant shall be written by the concerned authorities during his appointment in the project on deputation basis.

(6). CRITERIA FOR SELECTION.

a. A candidate for appointment to a project post must possess the prescribed minimum educational qualification and experience and they must be within the age limits advertised for the post.

b. A candidate shall be a citizen of Pakistan having domicile of NWFP or FATA. However, in case of a post requiring highly Technical and Professional qualification and experience, the appointing authority, with the approval of the next higher authority, may appoint a candidate domiciled of any other province or area.

c. Selection will be made purely on merit to be determined by the selection committee on the basis of academic qualification, experience etc in accordance with the following Criteria:-

A. Minimum prescribed Qualification:-

1. For General Cadre Professional Posts **60**

		Ist	**2nd**	**3rd**	**Total Marks**
(i)	Matric	60	45	36	
(ii)	Matric	30	21	18	
	F.A/F.Sc.	30	21	18	
(iii)	Matric	20	15	12	
	F.A/F.Sc.	20	15	12	
	B.A/B.Sc.	20	15	12	
(iv)	Matric	15	11	09	
	F.A/F.Sc.	15	11	09	
	B.A/B.Sc.	15	11	09	
	M.A/M.Sc.	15	11	09	

2. For Professional Posts

(i) For Four Examination:	**Ist**	**2nd**	**3rd**
Ist Professional	15	12	09
2nd Professional	15	12	09
3rd Professional	15	12	09
Final Professional	15	12	09

(ii) For Three Examinations.	**Ist**	**2nd**	**3rd**
Ist Professional	20	16	10
2nd Professional	20	16	10
3rd Professional	20	16	10

(iii) Higher Qualification

One step : 7 Marks

Two steps : 10 Marks

B. Experience (in the relevant field 1.5 marks per year) 15 Marks

(Maximum marks : 15)

C. Interview- : 8 Marks

D. **<u>Training course</u>:** Minimum three months training in the relevant field from a University/Institution recognized by the HEC or any Board of Technical Education or any training institute established by the Federal Government or any Provincial Government : 7 Marks

a. The character and antecedents of the candidate shall be verified before appointment on contract, except in case of the Government servants in whose case their ACRs/PERs that they obtained before their appointment shall be considered.

b. The candidate for appointment should be medically examined by the Standing Medical Board or the Civil Surgeon, as the case may be, except the Government servants.

c. Agreement for contract appointment drawn on the proforma, attached herewith, shall be signed, witnessed and placed on record.

(7). COMPOSITION OF SELECTION COMMITTEES.

Recruitment to the project posts shall be made on the recommendations of Selection Committees. Composition of Selection Committee for appointment to posts in different pay scales or equivalent posts will be as under:-

a) For posts in BS-19 and above or equivalent posts.

(1)	Additional Chief Secretary, NWFP.	Chairman
(2)	Secretary Establishment or his nominee not below the rank of Additional Secretary.	Member
(3)	Secretary Finance or his nominee not below the rank of Additional Secretary.	Member
(4)	For Technical posts, an expert from the Technical Departments or public Sector University may be associated with the Committee.	Member
(5)	Representative of P&D not below the rank of Additional Secretary.	Member
(6)	Secretary of the concerned sponsoring Department.	Member/ Secretary

b) For posts in BS-17 upto BS-18.

(1)	Secretary of the Department.	Chairman
(2)	Representative of the Establishment or his nominee not below the rank of Deputy Secretary.	Member
(3)	Representative of the Finance or his nominee not below the rank of Deputy Secretary.	Member
(4)	In case of technical posts, an expert from Technical Departments or public Sector University may be associated with the Committee.	Member
(5)	Representative of P&D not below the rank of Deputy Secretary.	Member
(6)	Project Director/ Additional Secretary or Deputy Secretary, if there is no Additional Secretary in the Department.	Member/ Secretary

c) For posts in BS-1 to 16.

(1)	Project Director.	Chairman
(2)	Additional Secretary or Deputy Secretary of the concerned department.	Member
(3)	Representative of the Establishment Department.	Member
(4)	Representative of Finance Department.	Member
(5)	Representative of the Project Director.	Secretary

(8). SHORTLISTING COMMITTEE.

(a) To facilitate the Selection Committees a Short-Listing Committee with the following composition will shortlist the candidates on the basis of their academic qualification, past experience , age limits and other conditions advertised for the post:-

(i) For the post of Project Director

1.	Administrative Secretary concerned	Chairman
2.	Additional/Deputy Secretary of concerned Department	Member
3.	Representative of Establishment Department not below the rank of Deputy Secretary.	Member
4.	Representative of Finance Department not below the rank of Deputy Secretary.	Member
5.	Representative of P&D not below the rank of Deputy Secretary.	Member

(ii) For other posts.

(1)	Project Director	Chairman
(2)	Additional Secretary or Deputy Secretary of the Department concerned.	Member
(3)	Representative of the Establishment Department not below the rank of Deputy Secretary.	Member
(4)	Representative of Finance Department not below the rank of Deputy Secretary.	Member
5.	Representative of P&D not below the rank of Deputy Secretary.	Member

b. After thorough scrutiny of record, only qualified and eligible candidates shall be called for interview.

(9). APPOINTING AUTHORITIES.

Project Director would exercise the powers of appointing authority for posts in and equivalent to BS 1-16, whereas Administrative Secretary concerned would be appointing authority for all posts equivalent to BS-17 and above. However, approval of the Chief Minister, NWFP shall be obtained, if deputation of Administrative Secretary or Head of Attached Department to the Project posts is involved.

(10). TERMINATION OF SERVICE ON COMPLETION OF PROJECT.

(i) A project employee shall work against that post for which she/he was recruited and shall not be transferred to any other post in the project or at any other station.

(ii) A project employee shall also not be transferred to any other project under the same department / Government.

(iii) If the performance of the employee is found unsatisfactory, his/her services shall be terminated on fifteen days notice or payment of fifteen days salary in lieu of notice. In case of a Government Servant, he/she may be repatriated to their parent department.

(iv) At the time of appointment each employee shall give an undertaking to the effect that during the employment, they shall be held responsible for the losses (accruing to the project due to them and shall be held answerable therefore).

(v) On completion of the project, the services of the project employees shall stand terminated. However, they shall be re-appointed on need basis, if the project is extend over any new phase or phases.

(vi) In case the project posts are converted into regular budgetary posts, the posts shall be filled in according to the rules prescribed for the post through the Public Service Commission or the Departmental Selection Committee, as the case may be. Ex-project employees shall have no right of adjustment against the regular posts. However, if eligible, they may also apply and compete for the posts with other candidates.

(11). ZONAL ALLOCATION FORMULA.

The Zonal Allocation Formula shall not apply to project posts.

2. It is requested that this policy may kindly be circulated amongst all concerned for strict compliance.

AGREEMENT

This agreement is made on this___________day of_____________(Two thousand, and______________) between Governor of the North-West Frontier Province (hereinafter referred to as the Government) acting through ___________________________on the ONE PART and ____(hereinafter referred to as the employee) on the OTHER PART;

WHEREAS the Government has agreed to employ the Employee and the Employee has agreed to serve the Government as___________________on the terms and conditions hereinafter mentioned;

NOW these present witnesses and the parties hereto respectively agree as follows:-

1. Subject to clause 9, the employee shall serve the Government as_____________in the project under_______________Department for a period of____________years commencing from the date of assumption of charge of the post.

2. The Employee shall-----
   (a) devote his/her whole-time to perform his/her duties as____________in the_________Project;
   (b) carry out such administrative functions in relation to his/her duties as the Government may, from time to time, assign to him/her;
   (c) submit himself/herself to the lawful orders of the Government and of the officers and authorities under whom his/her services may be placed from time to time, during the currency of this Agreement; and
   (d) proceed, whenever required, to such part of Pakistan and perform such duties relating to his/her appointment as the Government may specify.

3. (a) For the services rendered, the Employee shall be entitled to receive pay as may be prescribed in the project policy/PC-I and shall not be entitled to earn any annual increments during his contractual appointment. The pay of the Employee shall commence from the date of his/her assumption of charge of the post and cease on the date of termination of this agreement or on termination of his/her services for any reason, whichever may be earlier.
   (b) The Employee shall, if required to travel in the public interest be entitled to receive traveling allowance at such rate as may be prescribed, and
   (c) The Employee shall not, unless permitted by the Government, indulge in private practice, nor shall he indulge, directly or indirectly, in any trade, business or occupation, and in any political activity whatsoever, other than his obligations under this Agreement.

4. In the event of misconduct as defined in the NWFP Government Servants Conduct Rules 1987 or breach of any of the terms and conditions specified herein or in the PC-I or Project Policy on the part of project employee, except deputationist or those Government Servants who joined the project on Extra Ordinary Leave (Leave without pay), a fact finding inquiry shall be conducted. If charges are proved his/her services shall be terminated,

besides recovery in case of pecuniary loss to the project. The appointing authority, in such cases, shall be the competent authority in respect of the project staff, other (Leave without pay). If a deputationist or those who join the project on Extra Ordinary Leave (Leave without pay), are involved in misconduct or breach of terms and condition or cause pecuniary loss to the project, they shall be repatriated to their parent department with proposed action, recovery and penalty which shall be decided by their respective competent authorities.

5. If the performance of the employee is found unsatisfactory, his/her services shall be terminated on fifteen days notice or payment of fifteen days salary in lieu of notice. In case of a Government Servant, he may be repatriated to his/her parent department.

6. The Employee shall be held responsible for the losses accruing to the Project due to his carelessness or in efficiency and shall be recovered from him.

7. The employee shall be entitled for TA/DA in accordance with the TA rules of the North-West Frontier Province, NWFP.

8. The Employee shall not be entitled to any pension or gratuity for the service rendered by him;

9. Either party to this agreement may terminate the agreement by giving to the other party fifteen days notice in writing of its intention to do so and on the expiration of such notice this agreement shall be terminated:

   Provided that where no notice is served or served of a shorter period, the defaulting party shall pay to the other party an amount equal to the pay of the employee for the period of fifteen days or for such period by which the notice falls short, as the case may be:

10. On completion of project, the services of the employee shall be terminated. He may, however, be re-appointed if any phase of the project is there.

11. Stamp Duty, if any, on this instrument shall be borne by the employee.

In witness whereof the said________________________ and_________________________________ on behalf of the Government have hereinto set their hands first above written.

Signed by ___________________________________
In the presence of—

Witness 1. ______________________________________
2. ____
Signed by ____________________________

In the presence of—
Witness 1. ______________________________________
2. ______________________________________

(Authority; letter No. SOR-VI/E&AD/1-25/2007 Dated 2nd July 2008)

Amendments in the policy governing appointment against project posts.

I am directed to refer to the subject noted above and to state that policy governing appointment to project posts, issued vide this Department letter of even number, dated July 02, 2008 has been partially modified as follows, to be applicable with immediate effect to approved projects funded or partially by the Government of NWFP or controlled by the Provincial Government, for the new as well as the on-going projects.

(a) The lump sum pay package for fresh/directly recruited staff will be as below with 5% annual increment upto the maximum:-

Sl	BS/Equivalent	Pay Per mensum
1.	22	Rs.150,000 to 200,000
2.	21	125,000 to 150,000
3.	20	100,000 to 118,000
4.	19	75,000 to 90,000
5.	18	50,000 to 75,000
6.	17	45,000 to 50,000
7.	16	30,000 to 35,000
8.	11-15	15,000 to 25,000
9.	5-10	10,000 to 15,000
10.	1-4	7,000 to 10,000

(b) The civil servants on deputation to projects, on full time basis, will get pay in their own pay scales and allowances plus deputation allowance at the rate of 20% of the basic pay subject to maximum Rs.6000/-per month, and the following Project Allowance:-

BS	Amount p.m.
20 – 22	50,000
19	40,000
17 – 18	30,000
16	15,000
11 – 15	8,000
5 – 10	4,000
1 – 4	2,000

(c) The directly recruited project employees will be appointed on contract basis for an initial period not exceeding two years which will be extendable further till completion of the project on yearly basis after evaluation of their performance.

(d) The Government servants who are assigned additional charge of the posts of projects will be allowed Addition Charge Allowance at the rate of 20% of the basic pay subject to maximum Rs.6000/- per month, in addition to their normal pay and allowances of their regular posts. They will not be entitled to Project Allowance.

(e) If an employee of the project is selected on a post on the non-development side in the prescribed manner, he will be appointed at the initial stage of the relevant Basic Pay Scale, and his pay and service rendered in the project shall not be protected/counted for any purpose including pay, pension and seniority etc.

(f) During deputation to a project post, the Civil servant may ordinarily vacate the officially allotted residential accommodation. In case he wants to retain it, he shall pay house rent to the government @ 45% of the basic pay last drawn by him as well as 5% maintenance charges thereon according to the prescribed procedure. The same will apply if a civil servant is appointed on a project post through direct recruitment and the government residential accommodation officially allotted to him earlier is in the same station as his station of duty under the project.

(g) The initial period of deputation will be three years extendable for another two years or till the project life, whichever is earlier.

(h) A civil servant will not be considered for deputation to a project post unless he has successfully completed the initial as well as extended period of probation. He will also not be considered for deputation unless a period of at least 4 years has elapsed after his return from last deputation to a project.

(i) There will be a Provincial Project Selection Committee and a Departmental Project Committee for recommending deputation of civil servants to project posts strictly on merit keeping in view the job relevance, experience and service record. The constitution of the committee shall be as under:-

a. <u>Provincial Project Selection Committee (for BS-17 & above posts).</u>

i.	Additional Chief Secretary NWFP	Chairman
ii.	Secretary Establishment NWFP	Member
iii.	Secretary Finance NWFP	Member
iv.	Secretary P&D NWFP	Member
v.	Secretary of concerned Deptt.	(ex-officio Member)

b. <u>Departmental Project Selection Committee (for BS-16 & below posts)</u>

i.	Secretary of the concerned Department	Chairman
ii.	Representative of Estab Department	Member
iii.	Representative of Finance Department	Member
iv.	Representative of P&D Department	Member

2. The policy contained in this Department letter of even number, dated July 02, 2008 shall stand amended/modified to the above extent.

(Authority; letter No. SOR-VI/E&AD/1-25/2007 Dated 17th Oct. 2008)

Policy governing appointment to project posts – procedure for meeting of selection.

In continuation of this Department letter of even number, dated 17th October 2008 on the subject noted above I am directed to say that the procedure for submission of cases to the Provincial Project Selection Committee (PPSC) or Departmental Project Selection Committee (DPSC) for selection of civil servants to project posts on deputation basis has been examined. It has been decided that on receipt of requisition for deputation of a civil servant to a project post, his administrative department will decide whether the services of the civil servant concerned be lent for the project post or not. If he can be spared for deputation to project post, the Department concerned will prepare a self-contained Working Paper for consideration of the PPSC or the DPSC, as the case may be, which may be circulated among all members three days before the meeting. Subsequently, notice of the meeting and working paper will be issued to all members after obtaining approval of the Chairman of the PPSC or DPSC, as the case may be. The working paper should, inter alia, contain the following:-

i) Provisions of PC-I containing details of post including pay package etc. of the post, life of project and relevant extract of PC-I;

ii) Academic qualification of the officer proposed for deputation, training received and research work done, if any;

iii) Service history including present pay scale, cadre of officer and important posts held by him with assignments;

iv) Mode of appointment of officer to post presently held (i.e. initial recruitment or promotion); and whether probation period after appointment/promotion has been completed or not;

v) Any disciplinary proceedings initiated against the officer, if so, the outcome thereof;

vi) Whether living in Government or in a private/ own house;

vii) Nature of duty attached with the project post and relevance of the previous assignments of the officer with the post to which deputation is proposed;

viii) Stations of duty (in present post and after proposed deputation)

ix) Whether previously served in a project on deputation basis and if so period of stay and other details; and how much period has lapsed since his repatriation from the last project assignment;

x) Grading of PERs/ACRs for the last five years.

xi) Any other information which may be helpful in disposal of the case by the PPSC.

2. In view of time constraints, however, approval by circulation may be considered subject to prior approval of Chairman PPSC or the DPSC as the case may be.

(Authority; letter No. SOR-VI/E&AD/1-25/2007 Dated 23rd Oct. 2008)

Policy governing appointment against project posts.

I am directed to refer to the subject and to say that it has been observed that the Project Policy circulated by Establishment Department vide letter No.SOR-VI/E&AD/1-25/2007 dated 2nd July, 2008 and amended subsequently vide letter No.SOR-VI/E&AD/1-25/2007 dated 17-10-2008 is not being followed by the Provincial Administrative Departments/their Subordinate Offices, resulting in uncalled for liabilities for the Government. The egregious breaches of the Project Policy are enumerated as under:-

a) Continuation of the service of contract appointees for an indefinite period.

b) Deduction of GP Fund contribution from their salaries and depositing pension contribution for them.

c) Transferring such employees from one project post to another, and even posting them against regular and permanent posts.

d) Allowing such employees to avail facilities and perquisites to which they are not entitled to, in contravention of the provisions of their respective contracts.

e) Revising and extending the completion period of projects for the continuation of employment of contract appointees.

f) Making ad hoc appointments against project posts pending appointments through prescribed process and then not following the defined procedure, thus allowing the ad hoc employees to continue.

2. It is therefore requested that the instructions contained in the Project Policy be complied with in letter and spirit and all concerned also be directed to ensure strict compliance of the prescribed Project Policy.

3. Any violation of the Project Policy, shall render the concerned officer liable to be proceeded against for misconduct.

(Authority; letter No. SOR-VI/E&AD/1-25/2008 Vol-II, Dated 1st January, 2010)

Deputation Policy

I am directed to refer to the subject noted above and to state that in supersession of all policy instructions in this behalf, the Provincial Government have revised the policy on deputation abroad of Government servants with immediate effect, as follows:-

1. PROCEDURAL MECHANISM/CRITERIA

(i) Only Government Servants holding appointments on regular basis and having rendered 3 years service or more will be eligible to apply for deputation abroad. The Government servants shall not be allowed to seek employment or training with the private bodies inside or outside Pakistan either on their own or through the Bureau of Emigration and Overseas Employment or Overseas Employment Corporation of Pakistan, such an act being violative of the provisions of the NWFP Government Servants (Conduct) Rules 1987. They should apply only against posts under the foreign Governments, UN agencies and foreign Governments' recognized donor agencies which are engaged in development programme in Pakistan like, World Bank, Asian Development Bank, IDB, USAID, DFID, GTZ, JICA, AK Foundation etc.

(ii) The intending civil servant will apply for the post through proper channel to his administrative department on advertisement of the posts/ services in time so that his case could be properly processed.

(iii) In view of short time for processing, the intending Govt. servant may forward an advance copy of his application simultaneously to the borrowing agency and parent department for seeking departmental permission through proper channel. Copy of the application alongwith bio-data of the selected Govt servants should be sent to the Bureau of Immigration for record, if approved, by the competent authority.

(iv) Applications of the civil servants concerned shall be processed by the administrative department and if the applicant is found eligible for the post/ position advertised, departmental permission may be granted by the administrative department concerned. It is however, clarified that administrative department for the Secretariat staff, officers of the PCS(EG), PCS(SG) is the Establishment Department. Applications of APUG officers and P.S.P. will be forwarded to the Establishment Division Islamabad through Establishment Department, Government of NWFP.

(v) On receipt of application with offer of appointment, the administrative department concerned shall process the case and finalize its recommendations and forward the case to the concerned Special Selection Board (SSB) as indicated in the succeeding paragraphs within a period of one week. In case of shortage of time, applications should not be processed and the applicants be informed accordingly.

(vi) The Department concerned shall relieve the concerned employee in time to enable him to take up his new assignment without delay.

(vii) Period of deputation shall commence from the date of relieving of the employee and terminate on resumption of duty.

(viii) The person concerned shall have the right to retain his lien for a maximum of three years, if he is a permanent/confirmed employee.

(ix) No Government servant shall be allowed to convert his/her EOL/Leave ex-Pakistan into deputation abroad.

(x) Each working paper for the SSB would require specific recommendations of the Administrative Secretary who is also a member of the SSB. While recommending cases for approval of the SSB, the Administrative Secretary would ensure that attested copies of the following documents have been attached with the working paper.

1. Photocopy of the advertisement.
2. Prescribed qualifications and experience alongwith the qualification and experience of the applicant with photocopies of degrees/certificate.
3. Photocopy of the appointment offer.
4. Photocopy of the application and letter under which application was forwarded to the corporation.
5. Complete synopsis from the ACRs of the civil servants concerned.
6. Clarification whether the selectee holds a regular post or is an ad hoc or contract appointee. In case of regular employees it should be clarified as to whether his service is pensionable or is entitled to C.P. fund.
7. A certificate to the effect that no judicial/departmental or National Accountability Bureau/ Regional Accountability Bureau enquiry is pending against him.
8. Certificate/clearance of Intelligence Bureau.

2. CONTRIBUTION TOWARDS SERVICE LIABILITIES

Terms & conditions with regard to contribution towards service liabilities, leave, medical facilities etc. shall be settled in advance as required under Finance Department letter No.SOSR-III(FD)7- 131/73, dated 1st April, 1984. The Finance Department shall make necessary amendments in the relevant instructions if needed. After completion of deputation the deputationist Government servant shall be required to submit the copies of pension contribution/fund contribution challan and foreign exchange with charge assumption. In case of non submission of these documents his/her charge assumption shall not be accepted by the competent authority.

3. PERIOD OF DEPUTATION

Maximum period of deputation will be initially equal to the approved tenure of appointment of the borrowing international agencies/foreign Governments, subject to renewal if initial period is less than five years. Any extension in deputation will be considered only when the deputationist will produce attested photo copies of challans showing details of funds deposited on account of Pension/ Contributory Provident Fund/ General Provident Fund, Benevolent Fund and Group Insurance etc in Foreign Exchange.

4. EXTENTION IN DEPUTATION PERIOD BEYOND FIVE YEARS.

Time limit of five years will be extendable in case of Doctors, Lecturers/Teachers and Engineers on the request of concerned Government servant and his employer. However, name of a civil servant on deputation beyond 5 years shall be removed from the seniority list and shall be kept on the static list. He/she shall not claim promotion/seniority over any junior who may be promoted during the period he/she remains on deputation beyond five years. He/ she shall be considered for promotion after his/her repatriation and earning one PER for full year and will be assigned

seniority in the higher post only from the date he assumes charge of his/her post. The deputationist shall have to apply through parent department three months in advance for extension in the deputation period, if permissible. No request for ex-post facto approval/ retrospective extension shall be entertained at any level.

5. RELEVANCE TO THE JOB.

The recommending and competent authorities would ensure that the appointment abroad of an intending deputationist is relevant to his job in the parent department so that, besides accruing financial benefits, he/she would improve skills/expertise and deliver more efficiently on repatriation from foreign service.

6. RECOMMENDING BODIES

A Special Selection Board (SSB), under the Chairmanship of Chief Secretary NWFP, shall recommend cases of deputation in respect of officers in B-17 and above. Cases of employees in BS-16 and below, on the Secretariat strength will be considered by the SSB headed by Secretary Establishment whereas cases of other employees in B-16 and below shall be submitted to the SSB headed by the Administrative Secretary concerned for clearance and onward transmission to the employer. Composition of Special Selection Board is as under:-

(a) SPECIAL SELECTION BOARD FOR OFFICERS IN BPS-17 & ABOVE.

1) Chief Secretary NWFP — Chairman
2) Secy: Establishment — Member
3) Admn: Secretary concerned — Member
4) Deputy Secy:(Estt) E&AD — Secretary.

(b) SPECIAL SELECTION BOARD FOR OFFICERS IN BPS-16 & BELOW FOR SECRETARIAT OFFICIALS.

1) Secretary Establishment — Chairman
2) Deputy Secy:(Estt) E&AD — Member
3) Dy. Secretary (SR) Finance Deptt: — Member
4) Section Officer(E-IV) — Secretary

(c) SPECIAL SELECTION BOARD FOR OTHER THAN SECRETARIAT OFFICIALS IN BS-16 & BELOW.

1) Administrative Secretary concerned — Chairman
2) Heads of Attached Deptt: concerned — Member
3) Dy. Secretary (Admn) concerned — Member/Secretary

7. COMPETENT AUTHORITIES

The competent authorities to approve deputation of civil servants abroad to foreign service for officers in different Basic Pay Scales shall be as under-

S.No.	Categories of Officers	Competent Authority
1	Secretaries and Heads of Attached Deptt.	Chief Minister NWFP
2	Officers in BS-17 to BS-19 and other Officers in BS-20	Chief Secretary NWFP
3	Employees in BS-16 and below on Secretariat strength	Secretary Establishment
4	Other employees in BS-16 and below	Admn. Secretary concerned

8. SURETY BOND

The concerned Government servant shall execute a Surety Bond at least with two sureties of acceptable status duly witnessed to the effect that:-

a. He shall not indulge in any activity, which could malign the name of Province or Country or down grade the image or bring bad name or bad reputation for the Country and the Nation.

b. On completion of approved tenure he shall report to his parent department failing which his services shall be terminated.

c. He shall neither acquire citizenship of the borrowing country nor shall marry any foreign national without the prior approval of the competent authority.

d. He shall deposit all contributions including General Provident Fund/Contributory Provident Fund, Benevolent Fund, Group Insurance and any other fund of the same nature in Foreign Exchange in relevant Government account at the end of each year of deputation.

e. He shall repay all loans in lump sum, if any availed, to the concerned financial institution.

In case of breach of above, the concerned Government servant shall render himself liable to be proceeded against under the relevant law i.e. the NWFP Civil Servants Removal From Service (Special Powers) Ordinance 2000 as amended from time to time.

9. PROVISION OF CONTRACT AGREEMENT EXECUTED WITH FOREIGN EMPLOYER.

The deputationist shall, immediately after joining the foreign job, provide to the competent authority concerned through his administrative department an attested/verified copy of the contract agreement executed by him with the foreign agency/Government for record and future use in his case.

10. FILLING IN THE RESULTANT VACANCY.

As a result of deputation of a Government servant to Foreign Service, the vacancy is likely to be vacant for approved tenure of deputation. It should be filled in under Rule-9 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules 1989 on acting charge basis.

11. VACATION OF GOVERNMENT ACCOMMODATION

The Government servant proceeding on deputation under this policy shall vacate the Government allotted residential accommodation before joining Foreign Service.

2. It is requested that the above policy may kindly be brought into the notice of all concerned working under your control for guidance/compliance.

(Authority: letter No. SOR.VI (E&AD) 4 -5/2005, Dated 20th March 2006)

Terms & conditions of civil servants deputed to foreign service.

I am directed to refer to above-captioned subject and to state that in order to obviate inordinate delays in the settlement of terms and conditions of deputationists and in furtherance of the principles of good governance and decentralization of powers, the competent authority has decided that in supersession of all previous instructions on the subject, the terms & conditions of civil servants, who are deputed to foreign service, may hence-forth be determined by the Administrative Departments concerned.

2. The following terms and conditions of deputation are delegated to the administrative authorities/departments which shall invariably be followed accordingly:-

i) Pay:-

A civil servant on deputation shall be entitled to the graded pay as is admissible to him in his parent department from time to time.

ii) Deputation Allowance:-

a) In case the post in the Autonomous, Semi-Autonomous or Local Body or other Provincial Government or Federal Government concerned carries a pay scale equivalent to that of the post held by a civil servant in his parent department immediately before deputation on which he had actually assumed charge under Government, the deputation allowance will be allowed at the rate of 20% of the basic pay subject to maximum of Rs. 6000/- P.M.

b) In case the post under Autonomous, Semi-Autonomous or Local Body concerned carries a pay scale higher than that of the post held by a civil servant in his parent department immediately before deputation, on which he has actually assumed charge under Government, the deputation allowance will be allowed at the rate of 20% of the basic pay in his parent department provided the total/inclusive of deputation allowance does not exceed the maximum of the pay scale of the next higher pay scale/post in the civil servant's ordinary line of promotion under Government.

c) If a special pay is attached to the deputation post and is incidental to the scale of such post, the deputationist will be allowed either such special pay or the deputation allowance whichever be more beneficial to him.

d) The 20% deputation allowance of the basic pay subject to maximum of Rs.6000/- P.M will be allowed to a Civil Servant. In the case of officers

belonging to the Federal unified grades deputed on Foreign Service under NWFP Government, the terms & conditions of deputation shall be decided in consultation with the Establishment Division.

Note: - This policy will not be applicable to project posts.

iii) <u>Special Pay:-</u>
A Government Servant on deputation shall be entitled to the special pay permanently attached to the scale of the post/grade in his parent department in addition to the deputation allowance referred to above, provided he enjoyed that special pay for a period exceeding full one year under Govt. for example, the protection can be claimed in respect of the special pay of Rs.300/- attached with the post of PS to Secretary but not for the special pay allowed to a Tehsildars doing settlement work or that to a cashier for his specific job.

iv) <u>Traveling Allowance:-</u>
T.A will be allowed in accordance with the ordinary T.A Rules of the Provincial Government or Autonomous, Semi-Autonomous Body or Local Body whichever are more beneficial to him.

v) <u>Conveyance Allowance :-</u>
This allowance will be restricted to the scale as admissible under the Government Rules subject to the relevant conditions.

vi) <u>Compensatory Allowance:-</u>
Compensatory Allowance admissible to a civil servant at the same place of posting will continue to be admissible during deputation as per scale laid down by the Government; hence, it will not be inter-changeable with the compensatory allowances sanctioned by the Autonomous, Semi-Autonomous or Local Body concerned. However, the foreign employer will bear the whole expenditure in respect of any compensatory allowance for periods of leave granted to the civil servant in or at the end of Foreign Service.

vii) <u>Residential Accommodation/Housing Subsidy:-</u>
Accommodation will be provided to the deputationist by the Autonomous, Semi Autonomous or Local Body concerned of the same standard as is normally provided to a civil servant in his parent department subject to the recovery of rent @ 5% of his emoluments as defined in F.R. 45(c). Where such accommodation is not available and the Autonomous, Semi-Autonomous or Local Body concerned pays the house rent requisition or housing subsidy to its employees, the subsidy will be paid to the deputationist either at the rate admissible to such civil servant in his parent department from time to time or at the rate admissible to the employees of the foreign employer whichever is more beneficial to the deputationist. If the deputationist continues to reside in Government allotted accommodation under special permission of Government for certain specified periods, the difference between the standards rent recoverable by Government under F.R-45 (B) and that admissible to the deputationist in the deputation post, will be payable by the deputationist

concerned to the Government over and above the 5% rent recovery or as may be agreed upon mutually between the Departments concerned.

Note: - Housing subsidy and two rooms accommodation are exempted from 5% deduction.

viii) Medical Facilities:-
Medical facilities will be allowed in accordance with the relevant rules of the Autonomous, Semi-Autonomous or Local Body concerned provided these facilities are not inferior to those admissible to the deputationist under Government.

ix) Leave Salary and Pension Contributions:-
These will be payable by the foreign employer on the scale laid down by the Government from time to time.

x) Joining Time Pay and T.A on Transfer:-
This will also be payable by the foreign employer on transfer to and reversion from Foreign Service.

xi) Contributions:-
The Civil Servants shall continue to subscribe to the G.P Fund, C.P Fund, benevolent Fund and the Group Insurance Fund as under Government Rules and will also repay all the advances from G.P Fund or for house buildings etc. by cash deposit into Government Treasury.

xii) Other Benefits:-

All Fringe benefits attached to a deputation post other than the benefits specifically mentioned above will also be admissible to a deputationist. However, as a rule, no promotion or improved prospects of service shall be allowed to the deputationist without the prior consent of the Government.

xiii) Deputation Period:-
The period of deputation shall ordinarily not exceed three years. Its extension beyond the period of three years shall be decided by the Finance Department in advance on the merit of each case. Cases involving deputation period of more than five years, where special circumstances exist and the extension in deputation period of a civil servant is considered to be absolutely essential and in the public interest shall be referred to Establishment Department at least three months in advance of the expiry of the maximum period of deputation.

3. More-over while determining the terms & conditions of deputationist by the Administrative Department the provision of Chapter XII (FR 109 to 127) of the compilation of the Fundamental Rules and Supplementary Rules (Volumes I & II) read with FR-9 (7) and the Appendix No. 11 of the FR (as reproduced at Annexure-A) shall be kept in view in-so-far as they are not in conflict with the above-stated standard Terms & Conditions. A specimen Proforma to be signed by lending department as well as borrowing organization is also enclosed at Annexure-B for guidance.

ANNEXURE-A

CHAPTER XII OF F.R

- F.R. 9(7).
  Foreign service means service in which Government servant receives his substantive pay with the sanction of the Government from any source other than the revenues of the Governor-General or of a province or the Railway Fund (when established).
- F.R. 109.
  The rules in this chapter apply to those Government servants only who are transferred to Foreign Service after these rules come into force. Government servants transferred previously will remain subject to the rules in force at the time of transfer.
- F.R.110.
  a) No Government servant may be transferred to Foreign Service against his will.
  b) A transfer to Foreign Service outside Pakistan may be sanctioned by the Governor- General.
- F.R. 111
  A transfer to Foreign Service is not admissible unless
  a) the duties to be performed after the transfer are such as should, for public reasons, be rendered by a Government servant, and
  b) the Government servant transferred holds, at the time of transfer, a post paid from general revenues, or holds at lien on a permanent post, or would hold a lien on such a post had his lien on such a post had his lien not been suspended.
- F.R 112.
  If a Government servant is transferred to Foreign Service while on leave, he ceases, from the date of such transfer, to be on leave and to draw leave-salary.
- F.R. 113.
  (1) A Government servant transferred to foreign service shall remain in the cadre or cadres in which he was included in a substantive or officiating capacity immediately before his transfer and may be given such substantive or officiating promotion in those cadres as the authority competent to order promotion may decide. In giving promotion, such authority shall take into account---
  (a) the nature of the work performed in foreign service,
  (b) the promotion given to juniors in the cadre in which the question of promotion arises.
  (II) Nothing in this rule shall prevent a member of a subordinate service from receiving such other promotion in Government service as the authority who would have been competent to grant the promotion had he remained in Government Service may decide.
- F.R. 114.
  A Government servant in Foreign Service will draw pay from the foreign employer from the date on which he relinquishes charge of his post in Government Service. Subject to any restrictions which the Governor-General may by general order impose, the amount of his pay, the amount of joining time admissible to him and his pay during such joining time will be fixed by the authority sanctioning the transfer in consultation with the foreign employer.
- F.R.115.
  a) While a Government servant is in Foreign Service contribution towards the cost of his pension must be paid to general revenues on his behalf:

b) If the Foreign Service is in Pakistan contributions must be paid on account of the case of leave-salary also.
c) Contributions due under clauses (a) and (b) above shall be paid by the foreign employers.
d) They shall not be payable during leave taken while in Foreign Service.
e) By special arrangement made under rule 123(b), contributions on account of leave-salary may be required in the case of Foreign Service out of Pakistan also, the contributions being paid by the foreign employer.

- F.R. 116

The rate of contributions payable on account of pension and leave-salary shall be such as the Governor-General may by general order prescribe.

- F.R. 117.

a) The rates of pension contribution prescribed under rule 116 will be designed to secure to the Government Servant the pension that he would have earned by service under Government if he had not been transferred to Foreign Service.
b) The rates of contribution for leave-salary will be designed to secure to the Government servant leave-salary on the scale and under the conditions applicable to him. In calculating the rate of leave-salary admissible the pay drawn in Foreign Service, less in the case of Government servants paying their own contributions, such part of pay as may be paid as contribution, will count as pay for the purpose of rule 9(2).

(The rates of contributions prescribed by the Governor-General with reference to Fundamental Rules 116 and 117, are given in Appendix 11-A in Volume 11 of this Compilation).

- F.R. 118. Deleted.
- F.R. 119.
- Subject to any general orders of the Governor-General a local Government sanctioning a transfer to Foreign Service may;

(a) remit the contributions due in any specified case or class of cases, and
(b) make rules prescribing the rate of interest, if any, to be levied on overdue contributions.

|*For rule made under Fundamental Rule 119 (b), see supplementary Rule 307.*|

- F.R 120.

A Government servant in Foreign Service may not elect to withhold contributions and to forfeit the right to count as duty in Government service the time spent in foreign employ. The contribution paid on his behalf maintains his claim to pension, or to pension and leave-salary, as the case may be, in accordance with the rules of the service of which he is a member. Neither he nor the foreign employer has any right of property in contribution paid and no claim for refund can be entertained.

- F.R.121.

A Government servant transferred to Foreign Service may not without the sanction of the local Government, accept a pension or gratuity from his foreign employer in respect of such service.

- F.R. 122.

A Government servant in foreign service in Pakistan may not be granted leave otherwise than in accordance with the rules applicable to the service of which he is a

member and may not take leave or receive leave-salary from Government unless he actually quits duty and goes on leave.

|For Administrative Instructions issued by the Governor-General regarding leave and the grant of leave to Government servant in foreign service in Pakistan see Part VI (2) of Appendix 3 in Volume II of this Compilation|.

- F.R 123.

  (a) A Government Servant in Foreign Service out of Pakistan may be granted leave by his employer on such conditions as the employer may determine. In any individual case the authority sanctioning the transfer may determine beforehand, in consultation with the employer, the conditions on which leave will be granted by the employer. The leave-salary in respect of leave granted by the employer will be paid by the employer and the leave will not be debited against the Government Servant's leave account.
- F.R 124.

  A Government Servant in Foreign Service if appointed to officiate in a post in Government service, will draw pay calculated on the pay of the post in Government Service on which he holds lien or would hold a lien had his lien not been suspended and that of the post in which he officiates. His pay in foreign Service will not be taken into account in fixing his pay.
- F.R. 125.

  A Government Servant reverts from foreign service to Government service on the date on which he takes charge of his post in Government service; provided that if he takes leave on the conclusion of foreign service before rejoining his post, his reversion shall take effect from such date as the Local Government on whose establishment he is borne may decide.
- F.R 126.

  When a Government servant reverts from Foreign Service to Government Service, his pay will cease to be paid by the foreign employer, and his contributions will be discontinued, with effect from the date of reversion.
- F.R 127.
- When an addition is made to a regular establishment on the condition that its cost, or a definite portion of its cost, shall be recovered from the persons for whose benefit the additional establishment is created, recoveries shall be made under the following rules: -

  (a) The amount to be recovered shall be the gross sanctioned cost of the service, or of the portion of the service, as the case may be, and shall not vary with the actual expenditure of any month.

  (b) The cost of the service shall include contribution at such rates as may be laid down under rule 116, and the contribution shall be calculated on the sanctioned rates of pay of the members of the establishment.

  (c) Local Government may reduce the amount of recoveries or may entirely forego them.

APPENDIX NO. 11

Orders issued by the President under Fundamental Rule 114.

The President is pleased to issue, under Fundamental rule 114, the following orders regulating the amount of remuneration which may be sanctioned for a Government Servant transferred to foreign service in Pakistan: -

1. When the transfer of a Government Servant to foreign service in Pakistan is sanctioned, the period for which he is so transferred, the post which he shall hold in foreign service and the pay which he shall receive in such service must be precisely specified in the order sanctioning the transfer. If it is intended that he shall receive any remuneration, or enjoy any concession of pecuniary value, in addition to his pay proper, the exact nature of such remuneration or concession must be similarly specified. No Government Servant will be permitted to receive any remuneration or enjoy any concession, which is not so specified, and if the order is silent as to any particular remuneration or concession, it must be assumed that the intention is that it shall not be enjoyed.

2. Save as hereinafter provided a government servant transferred to foreign service in Pakistan shall be allowed the pay sanctioned for the post to which he is transferred or the pay he would have received, from time to time, in government service but for his transfer which is more.

   (Amendment effected vide Finance Division Government of Pakistan order No. F.3(22)R.3/97 dated 13/9/1997 circulated vide Finance Department, Government of NWFP letter No. FD(SR-V)2-151/93 dated 25/10/1997.

3. If the duties of a Government Servant in Foreign Service involve a decided increase in work or responsibility in comparison with the duties of his post in Government service he may be granted a suitable increase in pay, with the prior concurrence of the competent authority.

4. If, by reason of his transfer to foreign service, a Government servant loses any privilege or concession of pecuniary value which he would have enjoyed in Government service or is constrained to incur extra expenditure due to the nature of his duties in foreign service or to the circumstances in which those duties are performed, he may be allowed to compensatory allowance or other suitable concession with the prior concurrence of the competent authority.

5. In all cases of transfer to foreign service in Pakistan, the foreign employer should be required.

   (a) to pay contributions towards the leave salary and pension of the Government servant according to the ordinary rules regulating such contributions:

(b) to pay the Government servant his pay for the joining time granted to him on transfer to and reversion from foreign service at the rates prescribed in F.R. 107.

(c) to pay traveling allowance to the Government servant for journeys if any, performed by him on transfer to and reversion from foreign service (and for journeys performed on duty while in foreign service), according to the ordinary T.A. rules of the Government;

(d) to provide medical facilities to the Government servant while in foreign service similarly to those which he would have enjoyed in Government service but for his transfer.

6. In addition to the leave salary contribution provided for in paragraph 5 (a) above, the foreign employer shall bear the whole expenditure in respect of any compensatory allowance for periods of leave granted to the Government servant in or at the end of Foreign Service.

7. The foreign employer shall also be liable for leave salary in respect of disability leave granted to the Government servant on account of a disability incurred in and through foreign service, even though such disability manifests itself after the termination of foreign service. The Government servant direct from the foreign employer shall recover the leave salary charges for such leave.

ANNEXURE-B

PROFORMA.

TERMS AND CONDITIONS OF CIVIL SERVANTS DEPUTED ON FOREIGN SERVICE UNDER AUTONOMOUS, SEMI-AUTONOMOUS OR LOCAL BODIES.

Department ____
Attached Department Subordinate Office (if any)

1. Name: ____

2. Service to which belongs
Applicable_______________________________________

3. Date of joining Foreign Service _____________________

4. Position immediately before deputation
on foreign service _______________________________

(a) Nomenclature of post held under
Government & date of posting
(Whether ad hoc or regular) _____________

(b) Grade _______________________________

(c) Emoluments: -

(i) pay ________________________

(ii) Special Pay ___________________
(rate and purpose for which allowed)

(iii) Other Allowance _______________
(Details)

N.B: Indicate date from which each element drawn.

d) Substantive post (details) the
scale and the Presumptive
pay admissible in the post _____________________

5. Position immediately after deputation on foreign service :-

a) Post held immediately after deputation and scale of pay and special pay attached to the post.

b) Other emoluments and fringe benefits
if any, with details of each item. _____________________

c) Are the responsibilities in the deputation post higher than those attached to the post under Government (brief comparative account of responsibilities may be given in an Annexure).

d) House concession or subsidy normally admissible to employees of the same status in the deputation post. ________________________

e) Whether Govt: accommodation has been retained, if so, particulars of that accommodation and the rent paid to landlord if any. _________________________

6. Present position in foreign service: - (NB: Applicable in the case of extension of deputation terms only).

a) Present post in foreign service ______________________

b) Scale of pay _____________________________

c) Present emoluments with broader details___________________________________

d) Are the responsibilities in this post higher than those in that post mentioned against 5(a) above?

e) Brief justification for extending the deputation period

Date ____________________ Signature ________________

1. Head of Lending Deptt or his nominee
2. head of borrowing Organization or his nominee.

Note:- For details of emoluments please indicate Pay, Personal Pay, Special Pay or any other emoluments classed as pay, Dearness Allowance, Compensatory Allowance, House Rent Allowance or Subsidy, Rent Free House, Entertainment Allowance, Sumptuary Allowance, Uniform Allowance or any other allowance.

(Authority; No.SOSR-III/FD/1-20/2006, dated 24th January, 2007)

Counting of Ad hoc Service

Ad hoc Service
Ad hoc Appointment

This Department's letter No.SOIV(S&GAD)16-14/64(Policy), dated 20th October, 1969, on the subject noted above , and to say that in view of the complaints of favoritism and irregularities in the making of Ad hoc appointments, a decision was taken by Government to withdraw these powers from the Administrative Departments. An Ad hoc Appointments Committee was constituted with the Chairman Public Service Commission as its head.

2. The position has since been reviewed by the Government. The Administrative Departments have been pressing for restoration of powers of making Ad hoc appointments. It has been urged that powers of making appointments on an emergency basis, would give greater operational freedom to executing agencies and would speed up the implementation of projects and programmes. The grant of these powers to the Administrative Departments will ensure that responsibility for failure to fulfill the prescribed targets rests squarely on the Administrative Departments. In view of the considerations mentioned above, it has been decided to restore the powers of making Ad hoc appointments to the Administrative Departments and other authorities. The Ad hoc Appointments Committee has been abolished with immediate effect.

3. To ensure that there is no repetition of complaints with regard to favoritism and irregularities, it has been decided that the following procedure/instructions shall be observed strictly by appointing authorities**:-**

(i) **Requisition to Public Service Commission:-** a requisition must be sent to the Public Service Commission before action is taken to fill up the post on an ad hoc basis.

(ii) **Advertisement of vacancies:-** The vacancies for direct recruitment should be filled up after proper advertisement only.

(iii) **Appointment to conform to recruitment rules:-** The appointments should conform to the provisions of the service/ recruitment rules and in particular, the regional quotas prescribed by Government should be strictly adhered to.

(iv) **Criteria for selection-** (a) The selection should be made on the basis of merit and objective criteria should be used.

(b) In the absence of any other important factor, the selection of direct recruits should be based on the marks obtained by the candidate in the examination for the degree/diploma, etc. which is prescribed as the minimum qualifications for the post.

(c) In the case of promotions, the selection should be based strictly on the service record.

(d) The particulars of all candidates applying for the post should be tabulated in appropriate form, and signed by the Chairman of the Selection Board. Where candidates have been eliminated on the basis of a qualifying minimum e.g, examination/grades(it would not be necessary to list all the particulars of the candidates).

(v) Setting up of Selection Board - The Selection should be made by a Selection Board consisting of three officers and headed by an officer not below the rank of Secretary/additional Secretary of the Administrative Department for class I and by the Regional Head/Divisional Commissioner for Class II. Immediate steps should be taken to constitute Selection Boards at the two levels.

(vi) Appointment Orders- The appointment order should certify that a requisition for direct recruitment or promotion has been sent to the Public Service Commission.

(vii) Appointment orders will indicate that it is subject to revocation at the discretion of the Review Board.

(viii) Appointment orders of Ad hoc appointment will be published in Gazette.

(ix) Special conditions with regard to Ad hoc Service-Ad hoc appointments will not confer any right on the Government servants in the matter of regular appointment to the same post nor the service will count towards seniority.

(x) Service in an Ad hoc capacity will count as experience for the purpose of minimum qualification of a post.

(xi) The Ad hoc appointment will only last till the recommendations of the Commission have been received and Government has approved the selection of a candidate for the vacancy. On this the services of Ad hoc appointees, if not approved by the Commission, shall be terminated.

(xii) Provision for disposal of representation-

(a) Class-I - Persons aggrieved by an Ad hoc appointment to a Class I post may submit representations to a Review Board consisting of a Member, Board of Revenue and Additional Chief Secretary, Services and General Administration Department. The representation will be submitted within 15 days of the publication of the Gazette notifying the appointment. The Review Board would have the authority to pass appropriate orders including the revocation of an appointment already made. The revised order will also be published in the Gazette.

(b) Similarly, representations against orders of Ad hoc appointments to Class-II posts will lie to the Administrative Secretary. As in the case of Class-I, the representation will be submitted within 15 days of the publication of the appointment orders in the official Gazette. The Administrative Secretary would have the authority to pass appropriate

orders, including the revocation of an appointment order. The revised order will also be published in the Gazette.

(Authority: West Pakistan Circular letter No.SOIV(S&GAD)16-14/64 (Policy), dated 1.10.1969)

Ad hoc Appointments

Rule-14 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, provides that when the appointing authority considers it to be in the public interest to fill a post falling within the purview of the Public Service Commission urgently, pending nomination of candidate by the Commission, proceed to fill such post on ad hoc basis for a period not exceeding one year by advertising the same as in Part.III of the Rules ibid. In this connection, attention is invited to this Department's letter of even number dated 10-12-1989, wherein factual position with regard to ad hoc appointments was clarified to all concerned and it was stressed to stop making appointments on ad hoc basis. These instructions were reiterated vide this Department circular letter No.SORI(S&GAD)4-17/89(A) dated 5/3/1990.

2. Rule-3 of the NWFP Public Service Commission (Functions) Rules,1983, inter alia provides that the Commission shall conduct tests and examination, including Psychological test for initial recruitment to services and posts in connection with the affairs of the Province specified in the Schedule. The nomenclature of the services and posts included in the Schedule are as under**:-**

i) Services and Posts in Basic Pay Scale 16 to 20 except the following posts.

(a) Chairman and Members of the Commission;
(b) Additional District and Session Judges;
(c) Comptroller, Governor's House, Peshawar.
(d) Assistant Cypher Officer in the Provincial Cypher Centre.

ii) Post of Assistant Sub-Inspectors of Police.
iii) Naib Tehsildars.
iv) Zilladars.
v) Sub-Engineers.

3. According to the provision of the aforesaid rules, no ad hoc appointment is permissible against any post other than the one included in the Schedule as well as all posts in the Autonomous/Semi-Autonomous Bodies and Corporations which are outside the purview of the NWFP Public Service Commission.

4. It has, however, come to the notice of this Department that ad hoc appointments are being made by the Autonomous/Semi-Autonomous Bodies and by certain Government Departments against posts in B-15 and below (other than those recruitment to which is within the purview of the Commission) and despite the ban imposed by Government on making ad hoc appointments. This is not at all desirable.

5. I am, therefore, to reiterate to strictly abide by the aforesaid instructions and stop making appointments on ad hoc basis. These instructions may kindly be brought to the notice of all concerned under your control with clarification that the defaulters shall render themselves liable to strict disciplinary action under the relevant rules.

(Authority:S&GAD's letter No.SORI(S&GAD)1-206/74, dated 8th August,1992).

Confirmation and Lien

Prompt decision about confirmation of Government Servants on expiry of probationary period.

An identical provision regarding probation is being made in Service/Recruitment Rules of all the Services and posts. A copy of the standard rule relating to probation is enclosed.

2. A perusal of this rule will show that according to Explanation I of sub-clause 3 of the standard rule, a provision has been made that if no orders have been made by the date following the completion of the initial probationary period, the period of probation shall be deemed to have been extended. This provision has only been made to cover cases where an appointing authority cannot take a decision on account of unavoidable circumstances. The general rule should be that a decision regarding the confirmation of a probationer shall be taken before the expiry of the probationary period and it is only in rare cases that automatic extension of the probationary period under this explanation should be relied upon.

3. Another provision has been made in Explanation II of sub-clause 3 of the standard rule to the effect that if no orders have been made by the date on which the maximum period of probation expires, the probationer shall be deemed to have been confirmed in his appointment from the date on which the period of probation was last extended or may be deemed to have been so extended. This provision has also been made only to safeguard unavoidable delay by the appointing authorities to take a timely decision. It provides for automatic confirmation of the probationer for want of a proper order. But the proper course would be to assess the work of the probationer in time to form an opinion about his work, and take a proper decision instead of allowing the automatic confirmation of the probationer without proper assessment. The general rule in this case should be that there should be no occasion for the application of this explanation and timely action should be taken by the appointing authority regarding the fitness of a probationer for confirmation. I am to request that these instructions may kindly be strictly observed by all the appointing authorities.

4. There is still a number of Service/Recruitment Rules which have to be notified. In certain cases there are some existing Service Rules which fix the probationary period and the conditions for the confirmation. These rules should be strictly followed, especially about the time limit laid in each case. All cases of confirmation should be taken up well in time and decided before the expiry of the probationary period.

(Authority:S&GAD's letter No.SOXII(S&GAD)2-133/63,dated 12.8.1963)

Prompt decision about confirmation of Government Servants on expiry of probationary period.

This Department's Circular letter of dated 12.8.1963 in which the importance of taking prompt decisions about the confirmation of the probationers before the expiry of the probationary period was stressed. It is a matter of regret that cases still continue to come to the notice of this Department in which the Administrative Department did not take any decision during the initials as well as the extended period of probation of the officers with the result that the probationers become entitled to automatic confirmation and their confirmation

could not be withheld even when their work and conduct during the probationary period had been unsatisfactory. Government are gravely perturbed over this situation and have decided to make it obligatory on the Administrative Departments/ Appointing Authorities to pass an order on the completion of the initial probationary period, either (i) confirming the probationer; or (ii) extending the period of probation or (iii) dispensing with his services, if he was appointed by initial recruitment or (iv) reverting him to his former post, if he was appointed otherwise and if there is no such post dispensing with his services. In case the period of probation is extended, it would be binding on the Administrative Department/ appointing authorities to issue another order before the expiry of the extended period of probation, either confirming the officer or reverting him.

2. I am to add that Government would take serious notice of non observance of these instructions and would take disciplinary action against the officers found responsible for not complying with them.

3. This letter will take effect from Ist January,1968. In the meantime in all pending cases of the past appropriate orders may be passed.

(Authority:- S&GAD's letter No.SOXII(S&GAD)2-133/63, dated 7.10.67)

Retention of Lien

Under the existing rules, lien of a civil servant can only be retained if he is a confirmed employee and is working against a permanent post. Despite completing the extended period of probation, the Government servants are not being confirmed for obvious reasons for no fault of theirs. As a matter of principle a regular Government servant who has completed his prescribed period of probation inclusive of the extended period of probation has a right to be confirmed.

2. It has been brought to the notice of this Department that a large number of unconfirmed employees on their selection for different jobs in Government and Autonomous Organizations ask for retention of lien and right of reversion to their parent Departments which is not permissible presently. Resultantly such employees hesitate to join the service elsewhere.

3. Keeping in view the acute un-employment in the country in general and in NWFP in particular it has been decided to give right of reversion initially for two years extendable by a further period of one year if a request in this behalf is received from those employees who are selected for appointment under Federal and other Provincial Governments provided they have served on regular basis for at least two years or who have completed the extended period of probation but could not be confirmed for obvious reasons.

(Authority:-S&GAD's letter No.SORI(S&GAD)1-62/80, dated 17.4.1989)

Confirmation of Lien

I am directed to refer to the subject noted above and to state that the lien of a civil servant accrues when he is appointed substantively against a permanent post. Substantive appointment means confirmation. The confirmation of a Government servant in a cadre can

be made against a permanent post. The definition of permanent post is given in FR-9 (22) and temporary post in FR-9 (30). Apart from this definition from practical point of view all posts on SNE are temporary posts and all posts converted into permanent in Revenue Budget are permanent posts. In terms of Rule 16 of the APT Rules, 1989 read with Section-7 (3) of Civil Servants Act, 1973, after successful completion of probation, confirmation of servant can be made but against a permanent post held by him substantively whereas temporary can be filled regularly but not substantively. As such Government servant after successful completion of probation period after his direct recruitment or promotion become a regular employee against that post but not confirmed unless permanent vacancy becomes available to him.

2. On availability of a permanent vacancy in a cadre, confirmation shall be made there against on the basis of seniority-cum-fitness. It may be mentioned that if that post when converted into permanent and becomes available for confirmation, not the existing incumbent of that permanent post but the senior most in the cadre is confirmed against it irrespective of the fact whether he is holding the charge of that post or not. Even if an officer or official retires before his confirmation in service and after his retirement it comes to knowledge that some vacancies were available for their confirmation while in service, so in terms of section 7(4) of the Civil Servants Act, 1973 they should be confirmed first w.e.f. the dates of availability of the vacancies in their favour. These vacancies will be treated available again for confirmation of others w.e.f., the dates of retirement or death of the employees who were confirmed as such there against.

3. All the Departments are therefore advised to be guided by the relevant rules as explained above and carry out the exercise for confirmation of their employees in the aforesaid manner.

(Authority: Letter No.SOR.VI(E&AD)1-11/2003 Dated 2nd September 2003)

Retention of lien by the civil servants/ acceptance of resignation on ex-post facto basis.

I am directed to refer to the subject noted above and to state that instructions have been issued time and again that a Civil Servant, if selected for appointment in autonomous/semi-autonomous bodies remains no more a Civil Servant. Consequently, right of lien cannot be granted to such employees. Appointment of civil servants in the autonomous/ semi-autonomous bodies is considered as fresh/ direct appointment, therefore they have to tender resignation before joining the autonomous/semi-autonomous bodies.

2. The Provincial Government has noticed that civil servants are still making requests for retention of lien, which are being entertained by Administrative Departments. In certain cases, officers/officials have even been relieved on the condition of prior resignation from civil service. Such civil servants do not tender resignation in the hope of getting right of lien. Subsequently, they apply for acceptance of resignation from civil service. Such civil servants do not tender resignation in the hope of getting right of lien. Subsequently, they apply for acceptance of resignation from retrospective effect after considerable time.

3. In view of the above all concerned are advised to note that Civil Servants selected for appointment in autonomous/semi-autonomous bodies shall tender their resignation prior to joining posts in the autonomous/semi-autonomous bodies and no one shall be relieved

conditionally. Officers held responsible should be proceeded against under the Removal from Service (Special Powers) Ordinance, 2000.

4. Furthermore, before issuing NOCs to the Civil Servants while applying against the posts in autonomous and semi autonomous bodies, it should clearly be mentioned that in case of selection, the applicant shall have to tender resignation and shall have no right of lien.

(Authority; Letter No.SOR.VI(E&AD)1-11/2003, Dated 29TH July, 2006)

Retention of Lien

I am directed to refer to the subject noted above and to state that as per instructions with regard to retention of lien circulated vide this Department letter No.SOR.I(S&GAD) 1-62/80, dated 17.4.1989 if an employee joins the Federal or Provincial Government(s) he is eligible for repatriation to his parent Department if he fails to complete his probation period successfully. Such provisions are already available under the NWFP Civil Servants (Appointment, promotion & Transfer) Rules, 1989. Instructions mentioned above might have been processed to facilitate candidates joining Autonomous and Semi Autonomous Bodies as envisages from para-2 of the said letter but in Para-3 thereof the words autonomous and semi-autonomous bodies are not mentioned.

2. Due to acute un-employment in the country in general and in NWFP in particular it is advisable to allow all the civil servants to retain lien for a period of three years, so as if they are unable to adjust themselves in the Autonomous Bodies/Semi Autonomous Bodies they can rejoin their parent Department. If their performance during probation period is not satisfactory they can be repatriated to respective parent department instead of terminating their services.

3. So far the issue of treating the period spent in a non-pensionable autonomous organization by the re-joining of a Govt. post is concerned, it can be dealt with on the analogy of persons who proceed on deputation abroad or to Foreign Service in Pakistan in which case the employees contributed proportionate pension contribution to Govt. otherwise this period could be treated as non-qualifying service for pension by converting the same as Extra Ordinary Leave (without pay). In-as-much as it is an exceptional facility extended to Government Servants, it may be dealt with in an informal manner as stated above.

(Authority : letter No.SOR.I(E&AD)1-62/80 (Vol.I), dated 20.2.2002)

عنوان :۔ <u>خودمختار اور نیم خودمختار اداروں میں تقرری کے بعد حق لیئن (Lien)</u>

مجھے ہدایت کی ہے کہ عنوان بالا کے سلسلے میں وضاحت کی جائے کہ لیئن (lien) کا تعلق سول ملازم کی حیثیت (Status) سے ہے اس لیے لیئن (lien) کی اجازت صرف اس صورت دی جاسکتی ہے جب سول ملازم کی یہ حیثیت برقرار رہے۔ اس لیے اس صوبائی حکومت کے ملازم کو لیئن کا حق صرف اسی صورت میں دیا جا سکتا ہے جب موجودہ عہدہ جس پر وہ کام کر رہا ہو اس پر مختص شدہ آزمائشی یا توسیع شدہ آزمائشی مدت کامیابی سے پوری کر چکا ہو اور یہ عہدہ باقاعدہ (regular) ہو اس کی تقرری اس صوبائی محکمے یا کسی دوسری صوبائی حکومت یا وفاقی حکومت کے کسی محکمے میں باقاعدہ بنیادوں پر ہو جائے۔ چونکہ سرکاری ملازم کی خودمختار رنیم خودمختار اداروں میں تقرری کی صورت میں وہ سول ملازم نہیں رہتا اس لیے اس لیئن (lien) کا حق نہیں دیا جا سکتا۔ اس لیے وہ تمام سرکاری ملازمین جو اپنے محکمے کی اجازت سے خودمختار رنیم خودمختار اداروں کی طرف سے مشتہر کردہ اسامیوں کو رجوع کر کے تقرری حاصل کرتے ہیں انکی تقرری کو خودمختار رنیم خودمختار اداروں میں براہ راست تقرری تصور کیا جائیگا ایسے سرکاری ملازمین کو ایسی تقرری قبول کرنے کی صورت میں سرکاری ملازمت سے استعفیٰ دینا ہوگا۔ لھذا انہیں اپنی سرکاری ملازمت پر لیئن (lien) برقرار رکھنے کا حق نہیں دیا جانا چاہیے۔

(اتھارٹی: مراسلہ نمبر ایس او(سروس)ضوابط ۱ (ای اینڈ اے ڈی) ۱-۱۱/۲۰۰۳ء مورخہ ۲۲ فروری ۲۰۰۴ء)

Withdrawals of Resignation.

Acceptance of resignation and willful absence for more than five (5) years.

Under the existing practice, even a temporary Government servant is required to sign an undertaking containing inter alia the following provisions:-

(a) I understand that my employment under Government is temporary and that my services may be terminated by Government at any time, without assigning any reasons, by giving a notice for a period not less than 14 days or payment, in lieu of the notice, of a sum equivalent to my pay for 14 days or for the period by which the notice falls short of 14 days;

(b) I agree that I wish to terminate my services under Government at any time, I shall resign in writing and shall thereafter continue to serve Government until my resignation is accepted.

(c) I also understand that if I absent myself from duty without resigning in writing or before the acceptance by Government of my resignation, I shall be liable to disciplinary action, which may involve disqualification from future employment under Government.

2. It has however, come to notice that in certain cases Government servants have tendered resignations and without waiting for acceptance have left their jobs unauthorisedly and kept themselves absent for years. The departments on their part failed to initiate any action against such employees in time with the result that they subsequently reported for duty after the passage of long periods on one excuse or the other.

3. It has also been noticed that liberal relaxations are being granted under FR.18 in cases of willful absence from duty for more than 5 years without cogent/convincing reasons whereas according to the rules ibid a Government servant remains no more a Government employee after willful absence for five years.

4. The matter has been considered and it has been decided that:-

(a) After tendering resignation, a Government Servant shall not leave his job until the acceptance of his resignation by the Competent Authority nor shall he be granted any leave. In case one leaves his job without acceptance of his resignation he shall be treated as absconder and disciplinary action should invariably be initiated against him.

(b) Resignation tendered by a Government servant shall either be accepted or rejected by the Competent Authority within the stipulated period of not more than 30 days of its submission and acceptance/rejection thereof be communicated to the Government servant concerned accordingly.

(c) After 5 years of continuous absence, services of a Civil Servant shall automatically stand terminated under FR.18 and Rule 12 of the NWFP Civil

Servants Revised Leave Rules,1981. In the light of Rule 12 ibid, a willful absence of more than five years shall not be converted into leave without pay.

5. It is therefore, requested that the above instructions may be brought to the notice of all concerned for strict compliance in future.

(Authority: S&GAD's letter No.SORII(S&GAD)6(37)/89, dated 3rd Oct:,1989).

Determination of seniority of officials who are allowed to withdraw their resignation

A question has arisen whether a Government servant who resigned and has subsequently been allowed to withdraw his resignation should be assigned seniority and given other benefits which would have accrued to him had he not resigned.

2. When a resignation tendered by a Government servant has been accepted and the acceptance has been communicated to him, it becomes final. There can be no question of allowing him to 'withdraw ' the resignation.

3. Where a Government servant who has tendered resignation withdraws it before it is accepted by the competent authority, or where, after the acceptance but before the acceptance is communicated to him, he is allowed to withdraw the resignation, he continues in the post held by him without a break and the question of re-fixation of his seniority, etc. does not arise.

4. Where an appellate authority finds that the resignation was not tendered voluntarily or that it is otherwise null and void, the appellate authority may re-instate the Government servant concerned. On re-instatement the Government servant shall be regarded as having continued in service throughout.

5. If a Government servant, whose resignation has been accepted and communicated to him, is appointed to Government service thereafter, such appointment shall be regarded as a fresh appointment. The seniority, pension, leave, etc, of such a Government servant shall be fixed in accordance with the rules applicable to him as if this appointment was his first appointment to Government service.

6. There may, however, be cases in which it may not be fair to treat such a re-employed Government servant as a new recruit and it is proposed to give him any benefit in relaxation of the rules, the orders of the Government should invariably be obtained.

(Authority S&GAD letter No.SOXII/2-96/59, dated 24.12.59)

Preparation/issuance of seniority list of Government Servants

I am directed to say that sub-section (1) of Section 8 of the NWFP Civil Servants Act, 1973, inter alia provides that for proper administration of service, cadre or post, the appointing authority shall cause to prepare a seniority list of the members for the time being of such service, cadre or post. Similarly, the note below clause(e) of sub-rule(2) of the rule 6 of the NWFP Service Tribunals Rules, 1974, enjoins upon the appointing authority or any other authority which has been delegated the powers to make decision regarding seniority of

a Government Servant to prepare and notify in the official Gazette a list of Seniority of Government Servants under its administrative control. The list so prepared shall be maintained upto date and shall be revised at least once a year. The NWFP Civil Servants (Amendment) Act, 1989, also provides that the seniority list prepared under sub-section (1) of Section 8 (of the NWFP Civil Servants Act, 1973) shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

2. I am further to say that the Governor, NWFP has been pleased to delegate his powers to Chief Secretary, NWFP to approve the issuance of the Seniority List of the members of a service, cadre or post for which the Governor is appointing authority.

3. The above instructions may please be brought to the notice of all concerned for guidance/compliance please.

(Authority: No.SOR-I(E&AD)3-15/88(Vol.I), dated 9th May, 2002)

Re-employment policy

Re-employment of the Pensioners
beyond the age of sixty years

The Provincial Government have reviewed the policy governing re-employment beyond the age of 60 years and have decided that henceforth no extension in service or re-employment beyond the age of 60 years shall be allowed to any Government servant or servant of the Autonomous/Semi-Autonomous Bodies functioning under the control of this Provincial Government. However, the re-employment beyond the age of 60 years may be allowed against the posts mentioned below**:-**

(a) Chairman and Members of the NWFP Public Service Commission.

(b) Vice-Chancellors of the Universities;

(c) Chairman and Members of the Tribunals.

2. This Department letter No.SOR-III(S&GAD)9-6/86, dated 7th July,1988 shall stand superseded.

3. It is requested to please bring the above policy to the notice of all concerned for strict compliance.

(Authority:-S&GAD's letter No.SORIII(S&GAD)9-6/90, dated 18th Dec.,1990)

Re-employment beyond the age of 60 years

The Provincial Government have reviewed the policy governing re-employment beyond the age of 60 years as contained in this Department letter dated 18.12.1990 and have decided that**:-**

(i) No extension in service or re-employment beyond the age of 60 years shall be allowed to any Government servant except in cases of the Chairman and Members of the NWFP Public Service Commission, the Vice Chancellors of the Universities, the Chairman and Members of the Tribunals, and the Chairman Board of Intermediate and Secondary Education. The maximum age limit for retirement in these cases should not exceed 65 years;

(ii) all the existing re-employed pensioners may be allowed to continue till the completion of their tenures; and

(iii) the autonomous educational institutions may appoint one consultant each beyond the age of 60 years.

2. The above policy may kindly be brought to the notice of all concerned for compliance.

(Authority: Circular letter No.SORIII(S&GAD)9-6/90/KC, dated 30.1.2001)

Sanction to the condonation of service beyond the age of superannuation of 60 years.

On induction into service, a civil servant is required to declare his date of birth supported by authenticated documents such as matriculation certificate, municipal birth certificate etc. The Department concerned is similarly required to enter the same in the service book of the civil servant which is periodically checked by the Department/Audit and date of birth once recorded cannot be altered except in the case of clerical error as provided in GFR-116. In this connection attention is invited to this Department's circular bearing No. SORII(S&GAD)5(40)/87, dated 27.6.1993 wherein inter alia the following instructions were circulated for guidance and strict compliance by all concerned.

(a) Check all the record of their employees in BPS-1 to 16 to ensure that none has reached the age of superannuation.

(b) Maintain lists of their employees due for superannuation in a calendar year and process their pension papers, if any, well in time.

(c) Initiate case for regularization of retirement of civil servants before Ist February,1988, if any, who have already crossed the sixtieth year of their age. The responsibility in such cases should be fixed and the action taken be intimated alongwith the proposal.

(d) No case of over stay beyond the age of superannuation would be entertained under any circumstances after 1.02.1988.

2. However, it appears that these instructions have either lost sight of or the Departments least bother to comply with the same which is obviously not desirable. While processing a case of condonation of over stay beyond superannuation taken up by an Administrative Department for approval, the Competent Authority has taken a serious view of the negligence on the part of the dealing officers/officials of the Department concerned and directed that all the Departments should inform in writing all their employees in BPS-1 to 4 about their date of birth and consequential superannuation so that no ambiguities regarding their retirement occur in future. Intimation with regard to their date of retirement should also be given to these employees one year prior to their superannuation, so as to serve as advance information.

3. It is requested that the above policy instructions may be brought to the notice of all concerned and ensure compliance thereof in letter and spirit.

(Authority S&GAD letter No.SORII(S&GAD)1(2)/98, dated 29.8.1998.)

عنوان :۔ <u>سول ملازمین کی دوران ملازمت نام تبدیل کرنے کی پالیسی</u>

مجھے ہدایت کی گئی ہے کہ عنوان بالا کا حوالہ دیتے ہوئے عرض کروں کہ اکاؤنٹنٹ جنرل صوبہ سرحد کی طرف سے شکایت موصول ہوئی کہ سول ملازمین کی جانب سے ملازمت میں آنے کے بعد نام کی تبدیلی ایک عام مسئلہ بن گیا ہے جس سے نہ صرف پنشن کے معاملات کا بروقت تصفیہ نہیں ہو سکتا بلکہ پنشن پانے والے ملازمین اور ان کے خاندانوں کو مالی مسائل سے دوچار ہونا پڑتا ہے اور غیر ضروری خط و کتابت کرنی پڑتی ہے جو کہ وقت اور وسائل دونوں کے ضیاع پر منتج ہوتی ہے۔ قابل عمل اور خود وضاحتی ضوابط تشکیل دینے کی خاطر امور عملہ ڈویژن حکومت پاکستان اور دیگر صوبائی حکومتوں سے صلاح و مشاورت کی گئی۔ اس کے بعد محکمہ خزانہ اور اکاؤنٹنٹ جنرل صوبہ سرحد کے نمائندگان کے ساتھ اجلاس منعقد کر کے تفصیلی بحث کی گئی اور بہتری کیلئے تجاویز مرتب کی گئیں۔ صلاح و مشورے کے اس عمل سے گزر کر مختلف تجاویز و آراء سامنے آئیں جن کے پیش نظر ملازمت میں آنے کے بعد نام کی تبدیلی کی حکمت عملی اور ضوابط میں تبدیلی کا فیصلہ کیا گیا۔

۲۔ لہٰذا حاکم مجاز نے عنوان بالا پر ضوابط و حکمت عملی کی تمام سابقہ ہدایات کو منسوخ کرتے ہوئے ملازمت میں آنے کے بعد سول ملازمین کی طرف سے نام کی تبدیلی کو باضابطہ بنانے کیلئے درجہ ذیل پالیسی کی منظوری دی ہے:۔

(الف) <u>نام کی تبدیلی مندرجہ ذیل عوامل سے مشروط ہوگی۔</u>

(۱) متعلقہ محکمہ اور اکاؤنٹنٹ جنرل صوبہ سرحد دونوں سروس بُک میں ملازمین کے کوائف کا اندراج اس کے قومی شناختی کارڈ، تعلیمی اسناد، ڈومیسائل اور پیدائش سرٹیفیکیٹ کی بنیاد پر کریں گے۔

(۲) نام کی تبدیلی کی اجازت قطعی طور پر قابل قبول شرائط پر اور ملازمت میں آنے کے صرف دو سال کے اندر اندر ہوگی تاہم غیر مسلم جو دوران ملازمت مسلمان ہو جائیں اس شرط سے مستثنیٰ ہوں گے۔

(۳) جزوی طور پر نام کسی بھی وقت تبدیل کیا جا سکتا ہے بشرطیکہ حاکم مجاز اس کی منظوری دے اور دیگر لوازمات پورے کئے جائیں۔

(۴) جو ملازم سروس بُک میں اپنا نام تبدیل کرے وہ اسی طرح کی تبدیلی دیگر ریکارڈ مثلاً تعلیمی اسناد، قومی شناختی کارڈ، پیدائش سرٹیفیکیٹ اور ڈومیسائل سرٹیفیکیٹ وغیرہ میں بھی کریگا۔ ملازم کو اس بات کا پابند بنانے کیلئے سروس بُک میں ایک خانہ کا اضافہ کیا جائے اور اکاؤنٹنٹ جنرل صوبہ سرحد کا عملہ اس خانہ کو خصوصی طور پر چیک کرے۔

(ب) <u>نام تبدیل کرنے کا طریقہ کار/ضوابط</u>

(۱) سول ملازم جو نام تبدیل کرنا چاہتا ہو تحریری طور پر معقول وجوہات پیش کر کے پہلے حاکم مجاز کی منظوری حاصل کرے گا۔

(۲) حاکم مجاز باریک بینی سے درخواست میں دی گئی وجوہات کا جائزہ لینے کے بعد یہ فیصلہ کرے گا کہ درخواست حقائق پر مبنی ہے کہ نہیں ہے اور نام کی تبدیلی کی اجازت دی جانی چاہیے یا نہیں۔

(۳) اگر حاکم مجاز اجازت دیدے تو سول ملازم دو معروف اخبارات میں نام کی تبدیلی کا نوٹس شائع کرے گا اور متعلقہ اخبارات سے اقتباس/نقل حاکم مجاز کو پیش کریگا۔

(۴) حاکم مجاز سے نام کی تبدیلی کی باضابطہ منظوری کی صورت میں متعلقہ محکمہ اس امر کا حکم نامہ جاری کرے گا اور ملازم کے تمام دفتری ریکارڈ میں اسی طرح کی تبدیلی لا کر ان میں ہم آہنگی پیدا کرے۔

(۵) اکاؤنٹنٹ جنرل صوبہ سرحد/آڈٹ آفس کو بھی اس امر کی باضابطہ اطلاع سرکاری طور پر متعلقہ محکمہ کرے گا تا کہ وہ بھی ملازم کے سروس ریکارڈ میں اسی طرح کی تبدیلی بروقت کر سکے تا کہ ریٹائرمنٹ کے وقت ملازم کو پنشن کے حصول میں دقت نہ ہو۔

(۶) گزیٹڈ افسر کے نام کی تبدیلی کی صورت میں سرکاری گزٹ میں نوٹیفیکیشن بھی شائع کرنا ہوگا۔

(۷) خواتین ملازمین اگر دوران ملازمت شادی یا بوجہ طلاق اپنا نام جزوی طور پر شوہر کے نام کو بطور لاحقہ لگا کر یا ان کا نام ہٹا کر تبدیل کرنا چاہیں تو انہیں صرف نکاح نامہ یا طلاق نامہ کی مصدقہ نقل حاکم مجاز کو فراہم کرنا ہوگی۔ تاہم نام کی مکمل تبدیلی کی صورت میں مندرجہ بالا تمام مراحل طے کرنا ہوں گے۔

(ج) <u>حاکمان مجاز</u>

بنیادی سکیل ایک تا پندرہ تک کے ملازمین کیلئے انتظامی معتمد، سربراہان ملحقہ محکمہ جات اور ضلعی رابطہ افسران اپنے اپنے دائرہ اختیار میں مجاز ہوں گے جبکہ سکیل ۱۶، اور اس سے اوپر کے ملازمین کیلئے صرف متعلقہ انتظامی معتمد حاکم مجاز ہوگا۔

(اتھارٹی: مراسلہ نمبر ایس او ضوابط ۱ (ای اینڈ اے ڈی) ۲-۱۲/۲۰۰۳ مورخہ ۲۲ دسمبر ۲۰۰۶ء)

Change in the recorded date of birth of the civil servants

I am directed to say that under the existing rules, immediately after his induction into service, every civil servant is required to declare the date of his birth by the Christian era with as far as possible confirmatory/conclusive evidence such as matriculation certificate, municipal birth certificate and so on. This is supplemented by the opinion of the Civil Surgeon/Standing Medical Board. The department after full satisfaction with age and on the basis of medical examination of the new entrant in the department, enter the same in an authentic document i.e. Service Book/History of Service etc. The said document is maintained by the Department/ Audit and is always checked periodically.

2. The date of birth of a civil servant as recorded in his service documents remains constantly in his knowledge. This is reiterated in his ACRs and the Seniority List issued by the department from time to time. The preparation of service record of an officer is an official act and according to law, it is presumed to be correct. GFR-116 also provides that the date of birth once recorded cannot be altered except in the case of clerical error, without the previous orders of the Local Administration. Despite this, certain Government Servants are complacent with the state of affairs and sleep over their rights for decades knowing fully about their dates of birth entered in their Service Books etc. It would therefore be too much to accept such a belated claim from a Civil Servant that he was born on a date other than the one entered in his service documents and that the delay in representation was due to ignorance of the alleged erroneous entry. After all, there is always attached a finality to decisions taken by competent authorities.

3. I am, accordingly, directed to request that all concerned may please be informed in clear terms that in future a request for an alteration in the recorded date of birth of a Government servant may only be entertained by the Appointing Authority in the case of officers in BS-17 and above and by the Administrative Department in the case of civil servants in BS-16 and below, after special enquiry and only if the Government servant applies for it within two years from the date of his entry into Government service.

(Authority; No.SOR.II(S&GAD)5(40)/87, dated 15th February, 1989)

Criteria/modalities for classifying death/ incapacitation of civil servants in the line of duty for the purpose of compensation.

1. DEFINITIONS

(a) Civil Servant. Civil Servant means the same as defined in the Government of NWFP Civil Servants Act, 1973. However, the employees of Federal Government serving in Provincial Government would also be considered civil servants in the above mentioned meaning for the purpose of this letter.

(b) Shaheed. Shaheed means a civil servant who faces unnatural death due to an act of terrorism.

(c) Act of terrorism. means an act of terrorism as defined in the Section-6 of the pAnti- terrorism Act of 1997.

(d) Permanent Incapacitation. means dismemberment, amputation, severing of any limb or organ of the human body or permanent impairment of the functioning power or capacity of an organ of the human body, caused due to any act of terrorism.

(e) Temporary incapacitation / Grievous Injuries:

The committee unanimously decided not to give any compensation in this category because of its possible abuse and misuse.

2. "In the line of Duty"

In the line of duty means the following acts:-

I. To reside in a city which is the station of duty.

II. To come and go from his/her place of residence to the particular place of duty.

III. To come and go from his/her station of duty to his/her native town or village, on duly approved leave.

IV. Duty hours means 24 hours in a day and 7 days in a week.

V. To come and go to and from the markets, hospitals, educational institutions, restaurants, etc for the fulfillments of his physical, intellectual, social, ethical, religious needs or the needs of his family.

VI. Employees who fall victim in the cross fire either from terrorist or from Security Forces.

VII. While busy in official duties in his/her office or field.

A civil servant, as defined above, who is incapacitated / killed in any act of terrorism, anywhere, anytime, he/ she himself, or his/ her family, as the case may be, will deserve to get the compensation as notified by the government.

3. Required Documentary Proof.

For Shaheed:-

Obituary issued by the Department concerned.

Police FIR. In case of FATA Incident, Death Certificate by Agency surgeon verified by Political Agent.

List of legal heirs verified by DCO / PA.

Authority letter signed by the members of family where any one member of family is authorized/ nominated to receive payments.

For permanent incapacitation.

Police FIR supported by Medical Report. In case of FATA, Report of Agency Surgeon verified by Political Agent.

Provided that the affected civil servants, as defined above, serving in the jurisdiction of FATA will be paid out of funds provided by Federal Government to FATA.

4. Procedure / Responsibility.

The District Coordination Officer/Political Agent shall be responsible to initiate the cases of compensations and forward a complete case to the Finance Department and Establishment Department through the Administrative Department concerned, within a week time of the incident positively. The Finance Department and Establishment Department shall finalize the case of compensation within two weeks and shall issue the cheque which shall be delivered to the affected family in the fourth week of the incident through the DCO / PA of the district/Agency concerned.

(Authority letter No.SORVI(E&AD)1-10/2009, dated 1st October, 2009)

Conduct Rules

Statutory Provision regarding Conduct.

Section 15 of NWFP Civil Servants Act, 1973.

Conduct:- The conduct of a civil servant regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

The NWFP Government Servants (Conduct) Rules,1987.

1. **Short title and commencement.** (1) These rules may be called the [88][North-West Frontier Province Government Servants (Conduct) Rules,1987.

(2) They shall come into force at once.

2. **Extent of application:-**These rules apply to every person, whether on duty or on leave within or without the North-West Frontier Province serving in connection with the affairs of the North-West Frontier Province, including the employees of the Provincial Government deputed to serve under the Federal Government or with a statutory Corporation or with a non-Government employer, but excluding**:-**

(a) members of an All-Pakistan Service serving in connection with the affairs of the Province;

(b) employees of the Federal Government or other authority deputed temporarily to serve under the Provincial Government; and

(c) holders of such posts in connection with the affairs of the Province of North-West Frontier as the Provincial Government may, by a notification in the official Gazette, specify in this behalf.

3. **Definitions:-** (1) In these rules, unless there is anything repugnant in the subject or context;

(a) "Government" or "Provincial Government" means the Government of the North-West Frontier Province;

(b) "Government Servant" means a person to whom these rules apply;

(c) "member of a Government Servant's family" includes**:-**

(i) his wife, children and step children, parents, sisters and minor brothers, residing with and wholly dependent upon the Government Servant; and

[88] Published in the NWFP Government Gazette, Extraordinary, dated 10.2.88.

(ii) any other relative of the Government servant or his wife when residing with and wholly dependent upon him; but does not include a wife legally separated from the Government servant or a child or step-child who is no longer in anyway dependent upon him, of whose custody the Government servant has been deprived by law;

(d) "Province" means the North-West Frontier Province.

(2) Reference to a wife in clause(c) sub-rule(i)shall be construed as reference to the husband where the Government servant is a woman.

4. **Repeal:-** The West Pakistan Government Servants (Conduct)Rules,1966, are hereby repealed, but such repeal shall not affect anything duly done or suffered under those rules.

[89]4A **No Government Servant shall-**

(a) accept or obtain or agree to accept or attempt to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Pakistan Penal Code; or

(b) do or forbear to do any official act or show or forbear to show, in the exercise of his official functions, favour or disfavour to any person or render or attempt to render any service or disservice to any person, in violation or contravention of any provision of any law for the time being in force, or of rules made under Article 119 or 139 of the Constitution of the Islamic Republic of Pakistan, or the NWFP Civil Servants Act, 1973 or any other law for the time being inforce, including the North-West Frontier Province Government Rules of Business,1985 in a manner which may appear to facilitate acceptance or obtaining or agreeing to accept or attempting to obtain from any person for himself or for any other person any gratification, whatsoever, other than the legal remuneration, as a motive or reward; or

(c) accept or obtain or agree to accept or attempt to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be likely to be, concerned in any proceedings or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any Government servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(d) misappropriate, dishonestly or fraudulently, or otherwise convert for his own use or for the use of any other person any property entrusted to him or under his control as a Government servant or willfully allow any other person to do so; or

[89] Rule 4A inserted by Notification No.SOR.II(S&GAD)5(2)/79(C), dated 27.1.1997.

(e) obtain, by corrupt, dishonest, improper or illegal means, or seek for himself or for any other person, any property, valuable thing, pecuniary advantage or undue favour; or

(f) possess, directly or through his dependents or benamidars, any movable or immovable property or pecuniary resources, disproportionate to his known sources of income, which he cannot reasonably account for".

(g) [90]shall attend such functions and meetings in which Islamic moral values are not regarded or which are in violation of such values like functions of music and dancing by women etc.

5. **Gift:-** (1) Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of Government, accept or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without causing undue offence, it may be accepted and delivered to Government for decision as to its disposal.

(2) If any question arises whether receipt of a gift places a Government servant under any form of official obligation to the donor, the decision of Government thereon shall be final.

(3) If any gift, is offered by the head of representative of a foreign State, the Government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without offending the donor. If, however, he cannot do so, he shall accept the gift and shall report its receipt to Government for orders as to its disposal.

(4) Government servants are prohibited from receiving gift of any kind for their persons or for members of their families from diplomats, consulars and other foreign Government representatives or their employees who are stationed in Pakistan. If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the S&GAD.

(5) Government servants, except those drawing pay in basic pay scale 1 to 4, are prohibited from accepting cash awards offered by the visiting foreign dignitaries. In case, however, if it becomes impossible to refuse without causing offence to the visiting dignitary, the amount may be accepted and immediately deposited in the Treasury under the proper head of account.

(6) A Government servant may accept gifts offered abroad or within Pakistan by institutions or official dignitaries of foreign Government of comparable or higher level;

Provided that the value of the gift in each case does not exceed one thousand rupees. A Government servant desirous of retaining a gift worth more than one thousand rupees, can retain it on payment of the difference as evaluated under sub-rule(7). In any other case, the gift may be offered for sale.

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[90] New clause (g) added vide Notification No.SOR-VI/E&AD/2-16/2003 dated 28th June, 2004.

(7) For the purpose of sub-rule(6), the value of the gift shall be assessed by the S&GAD in consultation with the Finance Department and shall be allowed to be retained by the recipient, if it does not exceed one thousand rupees. Where the value of the gift exceeds one thousand rupees, the recipient may be allowed to retain the gift, if he so desires, on payment of a sum worked out in the following manner**:-**

(a) Where the value of the gift exceeds one thousand rupees but does not exceed five thousand rupees, twenty-five percent of the value of the gift in excess of one thousand rupees; or

(b) Where the value of the gift exceeds five thousand rupees, twenty five percent of so much of the value as exceeds one thousand rupees but does not exceed five thousand rupees plus fifteen percent of so much of the value as exceeds five thousand rupees.

(8) The responsibility for reporting the receipt of a gift shall devolve on the individual recipient. All gifts received by a Government servant, irrespective of their prices or value, must be reported to the S&GAD. However, the responsibility for reporting to the S&GAD the receipt of gifts, including the names of recipients, from foreign dignitaries or delegations, either during their visits to Pakistan or during the visits of Pakistani dignitaries or delegations abroad, shall lie with the Chief of Protocol or his representative in the former case, and with the Ambassador concerned in the latter case. In the case of foreign delegations or visiting dignitaries with whom the Chief of Protocol is not associated, the Ministry/Department sponsoring the visit shall be responsible to supply the details of gifts, if received, and the list of recipients to the S&GAD.

6. **Acceptance of foreign awards:-**No Government servant shall, except with the approval of the Governor of NWFP, accept a foreign award, title or decoration.

Explanation:-For the purpose of this rule, the expression "approval of the Governor" means prior approval in ordinary cases and ex-post facto approval in special cases where sufficient time is not available for obtaining prior approval.

7. **Public demonstration in honour of Government servants or raising of funds by them:-**(1) No Government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main purpose is to praise him;

Provided that the Head of Pakistan Mission Abroad, while so posted, may attend a public meeting or entertainment held in his honour.

(2) No Government servant shall take part in raising funds, except**:-**

(a) for any public or charitable purposes, with the previous permission of his next higher officer; or

(b) for a charitable object connected with the name of a Government servant or person recently quitted Government service with the previous permission of the Government;

Provided that Government servants belonging to the Provincial Police Service or Excise and Taxation Service shall not be granted any such permission.

8. **Gifts to Medical Officer:-**Subject to the departmental rules in this behalf, a medical officer may accept any gift of moderate value offered in good faith by any person or body of persons in recognition of his professional services.

9. **Subscriptions:-**No Government servant shall, except with the previous sanction of Government, ask for or accept or in any way participate in the raising of any subscription or other pecuniary assistance in pursuance of any object whatsoever.

10. **Lending and Borrowing:-**(1) No Government servant shall lend money to, or borrow money from, or place himself under any pecuniary obligation to, any person within the local limits of his authority or any person with whom he has any official dealings:

Provided that a Government servant may**:-**

(i) deal in the ordinary course of business with a joint stock company, bank or a firm of standing or the House Building Finance Corporation; and

(ii) accept a purely temporary loan of small amount, free of interest, from a personal friend or the operation of a credit account with a bonofide tradesman.

(2) When a Government servant is appointed or transferred to a post of such a nature that a person from whom he has borrowed money or to whom he has otherwise placed himself under pecuniary obligation will be subject to his official authority, or will reside, possess immovable property, or carry on business, within the local limits of such authority, the Government servant shall forth-with declare the circumstances, when he is a Gazzetted Officer, to Government through the usual channel, and where he is a Non-Gazzetted Government Servant, to the head of his office.

(3) This rule, in so far as it may be construed to relate to loans given to or taken from Co-operative Societies registered under the Cooperative Societies Act,1927, or under any law for the time being in force relating to the registration of Cooperative Societies, by the Government servants shall be subject to any general or special restrictions or relaxation made or permitted by Government.

11. **Buying and selling of valuable property, movable and immovable:-** [91][Rule-11 omitted]

12. **Declaration of property:-**(1) Every Government servant shall, at the time of entering Government service, make a declaration to Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies, cash and jewelry having a total value of Rs.50,000/- (Fifty thousand rupees) or more belonging to or held by him or a member of his family and such declaration shall-

(a) state the district within which the property is situated;

(b) show separately individual items of jewelry exceeding Rs.50,000/- (Fifty thousand rupees) in value; and

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[91] Rule-11 omitted vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.

(c) give such further information as Government may, by general or special order, require.

[92] (2) Every Government servant shall submit to Government, through usual channel, an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule(1) or the last annual return, as the case may be.” and

[93](3) Declaration of Assets Proforma shall be opened in the concerned section each year and entered into the relevant database.

13. [94]**Disclosures of assets, immovable and liquid:-** A Government servant shall disclose all his assets, immovable as well as liquid and expenses during any period in the specified form, when required to do so by Government.

14. **Speculation and Investment:-**(1) No Government servant shall speculate in investments. For the purpose of this sub-rule the habitual purchase and sale of security of notoriously fluctuating value shall be deemed to be speculation in investments.

(2) No Government servant shall make, or permit any member of his family to make, any investment likely to embarrass or influence him in the discharge of his official duties.

(3) No Government servant shall make any investment the value of which is likely to be affected by some even of which information is available to him as a Government servant and is not equally available to the general public.

(4) If any question arises whether a security or an investment is of the nature referred to in any of the foregoing sub-rules, the decision of Government thereon shall be final.

15. **Promotion and management of companies, etc:-** No Government servant shall, except with the previous sanction of Government take part in the promotion, registration or management of any bank or company:

Provided that a Government servant may, subject to the provisions of any general or special order of Government, take part in the promotion, registration or management of a Co-operative Society registered under any law for the time being in force for the purpose.

16. **Private trade, employment or work:-** (1) No Government servant shall, except with the previous sanction of the Government, engage in any trade or undertake any employment or work, other than his official duties:

Provided that he may, without such sanction, undertake honorary work of a religious, social or charitable nature or occasional work of a literary or artistic character, subject to the condition that his official duties do not thereby suffer and that the occupation or undertaking

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[92] Sub-rule 2 substituted vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.

[93] New sub-rule 3 added vide Notification No.SOR-VI/E&AD/2-16/2003 dated 7th March, 2005.

[94] "Rule 13"substituted by Notification No.SORIII(S&GAD)5(2) 79, dated 9.6.1996).

does not conflict or is not inconsistent with his position or obligations as a Government servant but he shall not undertake or shall discontinue such work if so directed by Government. A Government servant who has any doubt about the propriety of undertaking any particular work should refer the matter for the orders of Government:

Provided further that non-gazzetted Government servant may, without such sanction, undertake a small enterprise which absorbs family labour and where he does so shall file details of the enterprise alongwith the declaration of assets.

(2) Notwithstanding anything contained in sub-rule(1), no Government servant shall associate himself with any private trust, foundation or similar other institution which is not sponsored by Government.

(3) This rule does not apply to sports activities and memberships of recreation clubs.

17. **No Government servant shall live beyond his means, etc:-** No Government servant shall live beyond his means or indulge in ostentation on occasions of marriage or other ceremonies.

18. **Subletting of residential accommodation allotted by Government:-** No Government servant shall, except with the prior permission of the Head of the Department, sublet residential accommodation or any portion thereof allotted to him by Government.

19. **Insolvency and habitual indebtedness:-** (1) A Government servant shall avoid habitual indebtedness. If a Government servant is adjudged or declared insolvent or if the whole of that portion of his salary which is liable to attachment is frequently attached for debt has been continuously so attached for a period of two years, or is attached for a sum which in ordinary circumstances, he cannot repay within a period of two years, he shall be presumed to have contravened these rules unless he proves that the insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, he could not have foreseen or over which he had no control and was not due to extravagant or dissipated habits.

(2) A Government servant who applied to be or is adjudged or declared insolvent shall forthwith report his insolvency to the Head of the Office or Department or to the Secretary to the Administrative Department, as the case may be, in which he is employed.

20. **Report by Government servant in case of his involvement in a criminal case:-** If a Government servant is involved as an accused in a criminal case, he shall bring the fact of such involvement or conviction, as the case may be, to the notice of the Head of the Office or Department immediately or, if he is arrested and released on bail, soon after such release.

21. **Unauthorized communication of official documents or information:-** No Government servant shall, except in accordance with any special or general order of Government, communicate directly or indirectly any official information or the contents of any official document to a Government servant not authorized to receive it, or to a non-official person, or to the press.

22. **Approach to Members of the Assemblies:-** No Government servant shall, directly or indirectly approach any member of the National Assembly or a Provincial Assembly or any other non-official person to intervene on his behalf in any matter.

23. **Management, etc. of Newspapers or Periodicals:-** No Government servant shall except with the previous sanction of Government, own wholly or in part, or conduct or participate in the editing or management of any newspaper or other periodical publication.

24. **Radio-Broadcast and communications to the Press:-** No Government servant shall, except with the previous sanction of Government, or any other authority empowered by it in this behalf, or in bona fide discharge of his duties, participate in a radio broadcast or television programme or contribute any article or write any letter, either anonymously or in his own name or in the name of any other person to any newspaper or periodical:

Provided that such sanction shall generally be granted if such broadcast or television programme or such contribution or letter is not, or may not be considered likely to jeopardize the integrity of the Government servant, the security of Pakistan or friendly relations with foreign states or to fend public order, decency or morality, or tantamount to contempt of court, defamation or incitement to an offence:

Provided further that no such sanction shall be required if such broadcast or television programme or such contribution or letter is of a purely literary, artistic or scientific character.

25. **Publication of information and public speeches capable of embarrassing Government:-**(1) No Government servant shall, in any document, published or any public utterance, radio broadcast or television programme, or in any other manner make any statement of fact or opinion which is capable of embarrassing the Federal or any Provincial Government.

Provided that technical staff may publish research papers on technical subjects, if such papers do not express views on political issues or on Government Policy and do not include any information of a classified nature.

(2) Where a Government servant submits the draft of a literary, artistic or scientific article or book for obtaining previous sanction for its publication, he shall be informed within three months of his doing so whether he has or has not such sanction: and if no communication is issued to him within that period, he shall be entitled to presume that the sanction asked for has been granted.

26. **Evidence before Committees:-**(1) No Government servant shall give evidence before a public committee except with the previous sanction of Government.

(2) No Government servant giving such evidence shall criticize the policy nor decision of the Federal or any Provincial Government.

(3) This rule shall not apply to evidence given before statutory committees which has powers to compel attendance and the giving of answers, nor to evidence given in judicial inquiries.

27. **Taking part in politics and elections:-** (1)No Government servant shall take part in, subscribe in aid of, or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.

(2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement directly or indirectly, to be subversive to Government as by law established in Pakistan.

(3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

(4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule(3) to act.

(5) A Government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule(3) to have taken part in an election to such body.

(6) The provisions of sub-rule(3) and (5)shall, so far as may be, apply to elections to local authorities or bodies, save in respect of Government servants required or permitted by or under any law or order of Government, for the time being in force, to be candidates at such election.

(7) If any question arises whether any movement or activity falls within the scope of this rule, the decision of Government thereon shall be final.

28. **Propagation of Sectarian Creeds, etc:-** No Government servant shall propagate such sectarian creeds or take part in such sectarian controversies or indulge in such sectarian partiality and favourtism as are likely to affect his integrity in the discharge of his duties or to embarrass the administration or create feelings of discontent or displeasure amongst the Government servants in particular and amongst the people in general.

29. **Government servants not to express views against the ideology of Pakistan:-** No Government servant shall express views detrimental to the ideology or integrity of Pakistan.

30. **Nepotism, favourtism and victimization, etc:-** No Government servant shall indulge in provincialism, parochialism, nepotism, favourtism, victimization or willful abuse of office.

31. **Vindication by Government servants of their public acts or character:-** (1)A Government servant shall not, without the previous sanction of Government have recourse to any Court or to the press for the vindication of his public acts or character from defamatory attacks. When Government grants sanction to a Government servant to have recourse to a court, Government will ordinarily bear the cost of the proceedings, but may leave the

Government servant to institute them at his own expense. In the latter case, if he obtains a decision in his favour, Government may reimburse him to the extent of the whole or any part of the cost.

(2) Nothing in this rule limits or otherwise affects the right of a Government servant to vindicate his private acts or character.

32. **Membership of service Association:-** (1) No Government servant shall be a member, representative of office bearer of any association representing or purporting to represent Government servants, unless such association satisfies the following conditions, namely**:-**

(a) Membership of the Association and its office bearers shall consist of persons in one and the same "functional unit" and if there is no such functional unit, it may be formed by persons borne on a specific single cadre in or under a Department;

(b) Office-bearers of the Association shall be elected from amongst members of the Association actually serving. Persons who have retired or have been dismissed or removed from service shall cease to be members of such Association;

(c) The Association shall neither affiliate nor associate with any other body or Association belonging to any other cadre;

(d) The Association shall confine its representations to matters of general interest of Government servants whom it represents and shall not involve itself in individual cases of its members. Also the office bearers and members of the Association shall not participate in the activities of the Association at the cost of their official duties;

(e) The Association shall not engage in any activity or pursue a course of action which its members are individually prohibited to engage in or pursue under these rules or the instructions issued by Government, from time to time, concerning conduct of Government servant and service discipline;

(f) The Association shall not, in respect of any election to legislative body, or to a local authority or body, whether in Pakistan or elsewhere-

(i) pay or contribute towards any expenses incurred in connection with the candidature for such election.

(ii) support in any manner the candidature of any person for such election; or

(iii) undertake or assist in the registration of a candidate for such election;

(g) The Association, shall not-

(i) issue or maintain any periodical publication except in accordance with any general or special order of Government; and

(ii) publish, except with the previous sanction of Government, any representation on behalf of its members, whether in the press or otherwise;

(h) The Association shall get its bye-laws or rules approved by the Appointing Authority, who may at any time require any modification therein or propose rules or bye-laws, in a particular manner; and

(i) the Association shall submit annual statement of its accounts and lists of its members and office bearers to the Appointing Authority. Such statement and lists shall be submitted before Ist September every year;

(ii) the Association shall not represent or purport to represent Government servants unless it is recognized by the competent authority;

(iii) the appointing authority in respect of a cadre shall be the authority competent to recognize the Association of that cadre;

Provided that where the cadre consists of higher and lower grades, the authority competent to recognize the Association shall be the appointing authority in respect of the highest post in the cadre;

(iv) a Government servant who deals with the Association of a particular cadre and is also member of that cadre shall not become office bearer of such Association nor shall he take part in any activity of the Association;

(v) Government in its discretion may withdraw recognition of an Association, if in its opinion, such Association has violated any of the conditions of recognition.

33. **Restriction on acceptance of membership of certain association:-** No Government servant shall accept membership of any association or organization whose aims and objects, nature of activities and memberships are not publicly known.

34. **Use of political or other influence:-** No Government servant shall bring or attempt to bring political or other outside influence directly or indirectly, to bear on Government or any Government servant in support of any claim arising in connection with his employment as such.

35. **Approaching Foreign Mission and Aid-Giving Agencies:-** (1) No Government servant shall approach, directly or indirectly a Foreign Mission in Pakistan or any foreign aid-giving agency in Pakistan or abroad to secure for himself invitations to visit a foreign country or to elicit offers of training facilities abroad.

(2) Government servants should exercise great caution and restraint in the matter of social contacts with members of foreign missions working in Pakistan. They should also avoid casual remarks and observations on official matters in social gathering where foreigners are present.

(3) Officials of the level of Additional Secretary and below should not receive officials of foreign missions, except with the express permission of the Secretary.

(4) Government Servants are prohibited from contacting or making direct approaches to foreign missions in Pakistan in connection with their private business. All such approaches should be made through proper channel i.e through Chief of Protocol of the Ministry of Foreign Affairs.

(5) Invitations extended by Foreign Missions on the occasions of their National days to officers below the status of Secretaries may be accepted after obtaining permission from the Chief Secretary.

(6) The participation of officers below the status of Secretary in private functions arranged by foreign diplomats should generally be discouraged. Secretaries and officers of equivalent status, will, however, do so with prior approval of the Chief Secretary

(7) Repeated and frequent attendance by officers at private functions held by the same foreign diplomat must be avoided.

(8) As a general rule, only those officers who come into official contact with the foreign diplomat concerned should accept invitations.

36. **Delegation of powers:-** Government may, by general or special order, delegate to any officer or authority subordinate to it all or any of its powers under these rules and may, by such order, prescribe the channel through which reports shall be made to Government and the officers the receipt by whom such reports shall be regarded as receipts of the reports by Government within the meaning of these rules.

37. **Rules not to be in derogation of any law etc:-**Nothing in these rules shall derogate from the provisions of any law, or of any order of any competent authority, for the time being in force, relating to the conduct of Government servants.

Interpretation of Term 'Government' as defined in the NWFP Government Servants (Conduct) Rules, 1987.

I am directed to refer to the subject noted above and to say that the term 'Government or Provincial Government' as defined in the NWFP Government Servants (Conduct) Rules, 1987 means the Government of the North West Frontier Province. A question has arisen as to whether the term 'Government' or 'Provincial Government' for the purpose of these rules means the provincial Government in the Services and General Administration Department or the Provincial Govt in each Administrative Department.

2. The matter has been considered in the S&GAD and it has been held that the term Government appearing in the NWFP Government Servants (Conduct) Rules, 1987 means the Provincial Government in any Administrative Department. The Administrative Secretaries are therefore competent to grant permission under any rule of the NWFP Government Servants (Conduct) Rules, 1987 to an officer under their administrative control.

3. The Administrative Departments are therefore advised to deal with individual cases pertaining to the NWFP Government Servants (Conduct) Rules, 1987, at their level instead of referring such cases to Services and General Administration Department. The cases of officers belonging to APUG serving in the Province shall, however be decided by the Chief Secretary NWFP in exercise of the powers conferred on him by the Establishment Division Government of Pakistan vide OM No.26/1/69-D-IV dated 17.12.69.

(Authority S&GAD Letter No.SOR-II(S&GAD)5(27)/79 dated 16.11.98)

Leakage of information – treatment of confidential papers.

I am directed to refer to the subject noted above and to state that Rule 38 of the NWFP Government Rules of Business, 1985 provides that no information acquired directly or indirectly from official documents or relating to official matters, shall be communicated by Government Servants to the press, to any non-official or officials belonging to other government offices where he has been generally or specifically empowered to do so.

2. Sub rule (a) of Rule-67 of the NWFP Manual of Secretariat Instructions, 1989 also provides that all papers received or dealt with in the Secretariat are of a confidential nature and their contents should not be disclosed to or discussed with any un-authorized person and strictest secrecy shall be observed with regard to their contents.

3. Any breach of the above rules is punishable with imprisonment under Section-5 of the Official Secret Act 1923 (Act XIX of 1923). Moreover, Rule-21 of the NWFP Civil Servants (Conduct) Rules 1987 also debars communications directly or indirectly of an official information or contents of official documents to a Government Servant not authorized to receive it or to non-official person or to the press.

4. However, instances have come to notice that classified information and reports from government offices and intelligence agencies have been leaked out and disclosed to un-authorized individuals which can cause serious consequences and embarrassment to the Government.

5. Recently, a secret agency conducted an inquiry at the request of a Department and on the basis of its report, the Department issued show cause notice to the concerned official, and

not only specifically mentioned the report of that agency but also attached copies of the enquiry report with the show cause notice, and the concerned person approached the office of the agency and put its officials in embarrassing situation.

6. The Chief Secretary, NWFP has taken a serious notice of this lapse and has directed that all concerned should ensure complete confidentiality in accordance with the Official Secret Act, 1923 and the existing rules/regulations while handling sensitive/confidential information/intelligence reports. Such reports should not be used in this fashion and while quoting the report it should only be stated that it has been reported that……………and source should not be quoted.

7. Necessary instructions in this regard have been issued to all concerned by the Provincial Government of NWFP from time to time with the directions to strictly observe the above guidelines. However, certain instances have come to the notice of Chief Secretary, NWFP that aforesaid rules/instructions are not being followed strictly.

8. I am, therefore, directed to request you to kindly bring these instructions into the notice of all concerned working under your administrative control for strict compliance. Breach of the same shall render the concerned officials to disciplinary and legal action under the law.

(Authority; letter No. SOR-VI/E&AD/2-60/200, Dated 13th March 2008)

Committal to prison.

A servant of Government committed to prison either for debt or on a criminal charge should be considered as under suspension from the date of his arrest, and should be allowed only the payments laid down in Fundamental Rule 53 until the termination of the proceedings against him, when an adjustment of his pay and allowances should be made according to the circumstances of the case, the full amount being given only in the event of the Government servant being acquitted of blame or (if the imprisonment was for debt), to its being proved that the Government servant's liability arose from circumstances beyond his control.

Government decision- A Government servant who was dismissed from service on account of conviction by a court of law in a private case under-went a term of imprisonment and was later on released on bail. On appeal he was honourably acquitted and was reinstated, some time after the acquittal, with full pay under F. R. 54 (a) for the entire period of his absence from duty, commencing from the date from which the term of imprisonment began, to the date preceding that on which he was reinstated.

A question arose whether the action of the reinstating authority was covered by F. R. 54 (a) and was in order. The Government with the concurrence of the Auditor General have decided that F. R. 54 applies to departmental punishment and not to cases of punishment by a court of law for an alleged offence which has nothing to do with his official duties. The case should be decided with reference to the provisions in Section IV of Appendix 3 of the compilation of the Fundamental and the Supplementary Rules (Volume II). In such cases the proceedings might be considered to have terminating on the date preceding the date on which the official was reinstated and the action of the reinstating authority in granting him full pay for the entire period of his absence treated as in order.

(F.O. C.'s letter No D.2869-P.T./38, dated the 8th August 1938)

Director General's Instructions:- (1) The phrase "termination of proceedings" does not mean a decision of all the various appeals which are open to the convicted man. The intention of the clause is that in cases where the competent authority considers that dismissal of the Government servant concerned should follow his conviction and the dismissal should have effect from the Court's order of conviction, i.e., immediately on the termination of the first final. Dismissal cannot be ordered retrospectively with effect from the date of arrest.

(l, G. of P. and T's Memorandum No. 1200-A. R./25 dated the 17th September 1926. letter No. 166/Staff. B./99 dated the 28the February 1929, to All Heads of circles, etc.. and letter No. Es. B.III.2/40, dated the 2rd April 1940 to the A.G., P. and T)

(2) A Government servant was convicted by a magistrate under Section 409. I. P. C. He preferred an appeal against his conviction to the High Court which set aside the conviction and ordered a retrial of the case by the Magistrate. In a retrial also the official was convicted.

(3) A question arose as to which date viz., the date of first conviction or the date of conviction on retrial should be taken as the date of termination of the first final. It has been decided that in such case the date of termination of the first final should be the date of issue of the orders on retrial.

(D.G.,P & T's letter No. Es. B-III 29/41, date the 25th September 1942.)

CSR 194-A: A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government Servant is not arrested or is released on bail, the competent authority may suspend him, by specific order, if the charge against him is connected with his position as Government Servant or is likely to embarrass him in the discharge of his duties or involve moral turpitude. During suspension period the Government servant shall be entitled to the subsistence grant as admissible under FR-53.

(CSR 194 subsituted and CSR 194-A omitted vide Finance Division S.R.O No.25(KE)/97, dated 4.2.1997)

Suspension of a Government servant accused of criminal offences.

In cases where Government servants are accused of criminal offences, frequent references are made to the Establishment Division on issues such as:

(i) Whether, on their committal to prison, they are to be suspended by a specific order or their suspension is automatic;

(ii) Whether or not on their release on bail after arrest, they can be reinstated in service;

(iii) Whether their continued suspension requires approval of the authority after every three months.

2. The matter has been considered in the Establishment Division in consultation with the Law Division. It has been held that cases of the above nature are to be dealt with under Article 194 and 194-A of the Civil Service Regulations which are existing rules and which can not be over-ridden by administrative instructions contained in section IV of the Appendix-3 of Fundamental Rules and Supplementary Rules Vol.II.

3. In the context of the points mentioned in paragraph I, the position that emerges from Article 194 and 194-A of CSR is explained below:-

(a) A Government servant committed to prison either for debt or on a criminal charge should be considered as under suspension from the date of his arrest and until the termination of the proceedings against him i.e his suspension is automatic from the date of arrest till termination of proceedings against him;

(b) A Government servant against whom a criminal charge or proceeding for arrest for debt is pending should also be placed under suspension by the issue of specific orders to this effect during periods when he is not actually detained in custody or imprisoned (e.g whilst released on bail) if the charge made or proceedings taken against him is connected with his position as a Government servant or is likely to embarrass him in discharge of his duties as such or involves moral turpitude; and

(c) the requirement of obtaining approval of authority for extension of suspension period after every 3 months laid down in Government Servants (Efficiency and Discipline),Rules,1973 applies to suspension ordered under these rules. Articles 194 or 194-A do not mention any such requirement.

4. In view of the position stated above, the answers to the queries mentioned in Para 1 are as follows seriatim:-

(i) suspension under Article 194 is automatic. Suspension under Article 194-A requires specific approval of the competent authority;

(ii) in the light of what is stated in the preceding paragraph, the competent authority can, in case the accused official is no longer detained in custody, reinstate him in service unless it like him to continue to be under suspension on the consideration that the charges against him are connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties as such or involve moral turpitude. From the date of reinstatement onwards, the Government servant will no doubt be paid full pay. However, adjustment of allowances for the period he remained under suspension will be made as Article 194 and 194-A envisage after the termination of the proceedings;

(iii) approval of competent authority for suspension under Article 194 or 194-A is not required after every 3 months.

5. With reference to (i) and (ii) in the preceding paragraph, the following administrative instructions may also be followed:-

(a) a report may be made immediately to the "competent authority" whenever a person is committed to prison and is considered to be under suspension under

article 194 CSR in order to ensure that the competent authority remains in touch with the position of the official and his case; the fact of suspension may also be notified under advice to all concerned including the audit authorities in terms of Article 194 CSR; and

(b) a report on the progress of the criminal case leading to the suspension of a Government servant under Article 194 or 194-A. CSR, as the case may be, be submitted to the authorized officer every three months for his information to ensure that he remains in touch with the position of the official and his case.

6. The O.M, issues with the concurrence of the Ministry of Finance.

(Authority:-O.M No.4/12/74-DI, dated the 10th March,1980)

Dismissal or removal of Government Servants - Allowances on reinstatement

In continuation of this Department letter No.S(R)-13/58/SO.XII, dated the 30th September,1958, I am directed to say, that according to Rule 152(a) of the Sind Civil Service Rules, Volume-I,(which corresponds to Rule 7.3 of Civil Service Rules, Punjab, Volume-I) when a Government servant is honourably acquitted in a departmental enquiry or trial in Court, the period of absence from duty on account of the suspension, dismissal or removal from service, has to be treated as period spent on duty. If the acquittal is otherwise than honourable, the period of absence on account of suspension, dismissal or removal will not be treated as period spent on duty unless the revising or appellate authority so directs. In this connection a question has arisen whether an acquittal on technical grounds or caused by lack of evidence should be deemed to be honourable acquittal and whether such acquittal leaves any discretion to decide whether the acquittal was or was not honourable for the purposes of determining the pay and allowances payable to such servant during the said period of absence.

2. Government have considered the whole question and it has been decided that for the purposes of pay and other service matters, it is primarily necessary to consider whether or not an acquittal is honourable. When a servant is suspended he does not work for his master and should obviously get no salary for the period during which he has rendered no service. Service Rule, however, make provision for payment of a subsistence allowance during the period so that the servant does not starve. Where the servant might have been falsely involved in the case or inquiry, the State is prepared to compensate him fully, provided he satisfies that he has been honourably acquitted. The burden of proof is on him. In certain cases, it may be difficult for him to discharge this burden as in the case of a discharge on technical grounds where the merits of the case have not been discussed or gone into. It should be borne in mind that payment of salary during the period of suspension is a matter of favour and not a right even though the servant is finally acquitted. It may be noted that by his conduct he contributed to his implication in the case even though he was not guilty of the offence. Therefore, he will not be entitled to salary during the suspension period unless he satisfies Government that the case against him was absolutely false and that he has been honourably acquitted. On the other hand, it will not be presumed in every case of acquittal on technical grounds that the acquittal has not been honourable. Every case should, therefore, be decided on its own facts and circumstances and if the acquittal is held to be honourable the period of absence should be treated as spent on duty.

3. The ruling reported in A.I.R(33), 1946 Sindh 121 is not relevant. That was a case for expunction of remarks. But even in that case the Chief Court held that it was not inconsistent for a Judge to give benefit of doubt to an accused and will point a suspicious finger at him. All that it says is that having acquitted him, the court cannot proceed to suggest that his innocence had not been established.

(Authority:West Pakistan S&GAD letter No.S(R)1-13/58/SOXII, dated 10.1.1959)

Detention of Government Servants under the Public Safety Acts.

A question has arisen whether an employee of the Federal Government who is detained in prison for a period of time under the provisions of the Sind Maintenance of Public Safety Act, 1948 or a similar enactment and is released without any trial loses his service under the Government and whether such a person is entitled to any leave salary or subsistence allowance for the period he remained under detention. As some doubts seemed to exist in the matter, the question has been fully considered in consultation with the Law Division and it has been decided that the following procedure should be adopted to regulate cases of detention in prison and subsequent acquittal or conviction**:-**

(i) As soon as it comes to notice that an employee has been detained in prison, action should be taken to place him under suspension, the period of the employee's detention [95][should be treated as period spent under] committal to prison within the meaning of Article 194 C.S.R. and the pay and allowances during suspension should be regulated under F.R.53;

(ii) If the employee is subsequently acquitted honorably he should be reinstated forthwith. He will be entitled to receive full salary for the entire period of his absence from duty under F.R.54(a);

(iii) If on the other hand the acquittal is not honorable, then the provision of F.R.54 (b) will apply;

(iv) If the employee is released from detention without any trial, it is open to the competent authority to take disciplinary action against him if good and sufficient reasons exist from such action. In that case the procedure prescribed in the Efficiency and Discipline Rules must be observed;

(v) If the employee is convicted, he may be dismissed from service if his retention in service is not desirable. In that case the procedure prescribed in the Efficiency and Discipline Rules, need not be observed. He will be entitled to nothing more than the subsistence allowance up to the date of his dismissal from which date the pay and allowance will cease under F.R.52.

(Authority:-Office Memorandum No.F/19/11/49-Ests(SE), dated the 20th December,1949)

[95] [as amended vide Office Memorandum No.27/41/52-SE II, dated the 7th December,1954]

Rules for the acceptance and disposal of gifts by Government servants

The Government of Pakistan has partially modified the existing Rules regarding the acceptance and disposal of gifts received by Government servants' etc. The decisions taken by the Government in this regard are given below:-

(1) The responsibility for reporting the receipt of the gift shall continue to devolve on the individual recipient. All gifts received by a Government servant, irrespective of their prices must be reported to the Toshakhana in the Cabinet Division, Government of Pakistan.

The gifts are generally given when foreign dignitaries or delegations come to Pakistan or our VIPs or delegations go abroad. If the Chief of Protocol or his representative has been attached to a visiting dignitary or a foreign delegation, it shall be his responsibility to supply a list of the gifts together with the names of the recipients to the Cabinet Division. In the case of the delegations or visiting dignitaries, with whom the Chief of Protocol is not associated, the Ministry sponsoring the visit shall be responsible to supply the details of gifts received and the list of recipients to the Cabinet Division and the Ministry of Foreign Affairs. In the case of outgoing delegations or visits abroad of our VIPs, it shall be the responsibility of the Ambassador of Pakistan, in the country concerned to report the receipt of the gifts together with the name of the recipient to the Cabinet Division through the Ministry of Foreign Affairs. If on checking the list it is found that an individual has not reported the receipt of a gift, appropriate action will be taken against him under the relevant rules.

(2) Government officials except those belonging to Grades 1 to 4, are prohibited from receiving cash awards offered by the visiting foreign dignitaries. These may please be politely refused. In case, however, it becomes impossible to refuse without causing offence to the visiting dignitary, the amount should be immediately deposited in the treasury under the head given hereafter.

(3) Government officials are prohibited from receiving gift of any kind for their person or for members of their families from diplomatic, Consular and other foreign Government representatives or their employees, who are stationed in Pakistan. As the Heads of Missions in Pakistan have been caused by the return of the gift. If, however, due to very exceptional reasons the gift cannot be returned, it should invariably be deposited in the Toshakhana. These instructions, however, would not apply to gifts/donations made to institutions.

(4) The value of the gifts will be assessed by the Cabinet Division which will devise an improved and practical system of assessing, in the country, wherever possible, the value of all gifts received.

(5) The monetary limits upto which the gifts could be retained by the recipient have been revised. The new limits are as follows:-

(a) Gifts valued upto Rs.1000/- may be allowed to be retained by the recipients.

(b) Gifts valued between Rs.1000/- and Rs.5000/- may be allowed to be retained by a recipient if he is willing to pay 25% of the value of the gift after deducting Rs.1000/- from its assessed value.

(c) Gifts of the value beyond Rs .5,000/- may be allowed to be retained by a recipient if he is willing to pay 25% of the value between Rs.1000/- and Rs.5,000/- and 15% of the value above Rs.5,000/-.

(6) The Head of Account of Toshakhana in which the amounts are to be deposited is "1390-Others(NES)Receipts of Darbar Presents (Central). Misc.

(7) Presents deposited in Toshakhana which are fit for display, shall be properly catalogued and then displayed in the public rooms of the Foreign Office and in the residences of the Head of the State, the Head of the Federal Government and the Governors. Such articles would be properly entered in the Toshakhana register and in the stock registers of the respective offices. An annual verification preferably in the first week of January shall be carried out in respect of such articles and a report submitted to the Cabinet Secretary.

(8) Gifts, which are not fit to be retained or displayed, shall be disposed of by periodical sales to be arranged by the Cabinet Division, Government of Pakistan. The Cabinet Division will ensure a wider circulation of the periodic restricted sale of such gifts. Such sales could be negotiated also on the basis of a reserve price, if no buyers are available in the restricted auctions. These auctions will be held once or twice a year. The list of gifts to be sold in such auctions will be circulated to all Federal Government officers and officers of the Armed Forces.

(9) These rules also apply to the employees of the Government controlled Corporations, autonomous and semi autonomous bodies and all nationalized institutions.

(Authority: Cabinet Division O.M.No.8/19/77-TK dated, 30.3.1978
circulated by NWFP No.SORII(S&GAD) 5(2) 79,dated 11.8.1986)

Engagement in trade and Business, etc. by spouses of Government Servants

Establishment Division, Government of Pakistan O.M No. 7/1/79-D.IV, dated 1/9/1979 on the subject noted above and to say that the Government of NWFP have also decided to obtain a certificate from its civil servants similar to that asked for by the Federal Government for its employees in respect of engagement in trade or business of their spouses. All those employees of the Provincial Government working under your control, whose spouses are employed in private enterprises or engaged in business or other profession should render a certificate to the affect that the profession, trade or business in which such a civil servant; spouse is engaged is in no way under his/her official influence.

2. Such certificates in the case of Grade-16 and below civil servants shall be retained by the Head of Attached Departments concerned. In the case of Grade-17 and above Government Servants such certificates will be retained in the Administrative Department concerned.

(Authority:-Circular letter No.SORII(S&GAD)10-1/78(KC 2) , dated 3.10.1979).

Engagement in trade and Business, etc.
by spouses of Government Servants

Under the Government Servants (Conduct) Rules,1964, no Government servant is allowed to engage in any trade or undertake any employment or work, other than his official duties, except with the previous sanction of the Government. There is, however, no bar to the spouses of Government servants taking employment or engaging in any trade or profession. It has come to the notice of Government that the wives of some Government servants have been engaging in trade and business where influence of the husband could possibly be misused. In such cases, the possibility of public interest being jeopardized cannot be ruled out.

2. In order to safeguard the public interest in such cases, it has been decided that all Government officials whose spouses have undertaken some private job or are engaged in business and trade may be directed to render a certificate to the Secretary of the Ministry/ Division or the Head of the Department concerned that the profession, trade or business in which his or her spouse is engaged in no way under his/her official influence.

(Authority: Estt:Division O.M No.7/1/79-D.IV, dt 1.9.79 & NWFP No.SORII(S&GADS) 10-1/78, dt 3.10.79)

Acceptance of Gifts.

Instances have come to the notice of the Federal Government that some civil servants in utter dis-regard of the provisions of Rule-5 of the Central, Government Servants (Conduct), Rules,1964 have been accepting gifts not only from Government Organizations but even from private firms and factories which could be safely refused without offending any one. Rule-5 of the West Pakistan Government Servants (Conduct), Rules,1966, which rules are applicable to the civil servants of the Government of NWFP, lays the same embargo on the Provincial Civil Servants in the acceptance of gifts. In order to preclude the possibility of occurrence of such irregularity in the Provincial sphere, it may be emphasized on the officials working in the Provincial Government Departments/ Institutions and Autonomous Bodies/Corporations of the Provincial Government that they should exercise much greater caution and restraint in the acceptance of gifts. Contravention of rules and instructions on the subject may lead to severe disciplinary action against the defaulter.

2. These instructions may please be brought to the notice of all concerned for strict compliance.

(Authority:-Circular letter No.SORII(S&GAD)10-1/77(KC No.1) , dated 3.10.1979)

Acceptance of Gifts.

According to the instructions contained in the Cabinet Division's Office Memorandum No.8/19/77-TK, dated the 30th March,1978, the responsibility for reporting receipt of gifts

devolves on the individual recipient. All gifts received by a Government official irrespective of their prices, are to be reported to the Toshakhana in the Cabinet Division, Government of Pakistan. Government officials are also barred from receiving gifts of any kind for their person or for members of their families from the Diplomatic, the consulars and other foreign Government representatives and their employees.

2. Cases have come to notice of the Cabinet Division where some recipients did not intimate the receipt of the gifts, on their own or they did so very late. It has also been observed that Government officials have been accepting gifts not only from Government organizations but also from private firms/parties in contravention of the existing instructions.

3. All Ministries/Divisions are, therefore, once again requested to advise the officials working in the Government Departments/Agencies/Corporations/other Organizations under their control to observe the rules on the subject in their own interest.

(Authority: Cabinet Division O.M No.9/12/86-TK, dated 15.7.1986 circulated by NWFP vide No.SORII(S&GAD)5(2)79, dated 11.8.1986)

Receipt of Cash Awards from Foreign dignitaries.

Instances have come to notice of the Federal Government that Cash Awards offered by the visiting foreign dignitaries to various officers and staff were readily accepted by them. The Prime Minister of Pakistan is not in favour of acceptance of such awards by officers. It is requested to inform all officers working under your control not to accept Cash Awards from the foreign dignitaries and refuse the same to them politely.

(Authority: S&GAD letter No.SOS.III(S&GAD)3-11/77, dated 7.2.77)

Participation of Government Servants in Associations/Organizations, promoting Provincialism, Parochialism etc.

The West Pakistan Government Servants(Conduct) Rules, 1966, which are applicable to the civil servants of the Government of NWFP, rule 26 & 29 thereof forbid Provincial civil servants to indulge in activities of fostering provincialism, parochialism etc. Therefore, in order to prevent such elements in Provincial Services, from taking part in such activities, it is requested that the provision of rule 26 & 29 of the Conduct Rules mentioned above may please be brought to the notice of the all civil servants and employees of the Government controlled Organizations, under your control, to refrain from taking part in such activities and also severe their connection with Associations of the kind; failure to do so will make them liable to severe disciplinary action.

(Authority:-Circular letter No.SORII(S&GAD)10-1/78, dated 25.11.1979)

Declaration of Property under Government Servants (Conduct) Rules,1987.

The undersigned is directed to say that Government servants are required to furnish details of their assets and liabilities, whether in their own names or in the names of their wives, children and other dependents, on the prescribed proforma, in terms of Rule 12(2) of

Government Servants (Conduct) Rules,1964 in accordance with procedure already circulated from time to time by the Establishment Division, reproduced below:-

i) the declarations of assets of the officers of Grade-17 and above belonging to All Pakistan Unified Grades i.e (DMG, Police Group, TAG, Sectt: Group) including DMG, should be submitted in duplicate to the Secretaries of the Ministries / Divisions etc. under whom they are for the time being employed.

ii) The Ministries/Divisions concerned should retain a copy of the declaration of the officers mentioned in (i) above and furnish the original ones to the Estt: Division for retention.

iii) These instructions also apply to Government employees under the Federal Government on deputation to Provincial Governments. Such deputationists shall submit declarations to the S&GAD of the concerned Province, who will retain a copy and pass on the original one to the Establishment Division in case of an officer belonging to APUG/DMG and in other cases to the Secretary to the Ministry/Division which is administratively concerned with the group/service of the officer filling the declaration.

iv) The declaration of the officers belonging to services/groups other than the services/groups controlled by the Establishment Division should be furnished to the Heads of Departments where the officers are working, who would maintain a copy of declaration in each case and pass on the original one to the Ministry/Division administratively concerned with the service/group to which the officer belongs.

v) The declaration in the prescribed proforma should also be obtained by the Ministry/Division concerned from those Government servants who are on deputation to the statutory and autonomous bodies, CDA, WAPDA etc. controlled by the Ministries/Divisions.

vi) The declarations shall be submitted in double sealed covers. On each cover full particulars of the officer making the declarations must be clearly indicated at the left hand top, such as name of the officer, designation, group/service to which he belongs, declaration for the year ending etc.

vii) The declaration of assets are required to be submitted to the respective authorities by 30th September every year according to fiscal year ending 30th June and not calendar year ending 31st December.

viii) Declaration of assets from all Government servants in grades 1-16 should be obtained by Ministries/Divisions concerned and should be kept in the custody of Ministries/Divisions/departments concerned.

ix) Declarations should be opened only under the authority of Secretaries of the Ministries/Divisions in respect of Grades upto 16 and in respect of 17 and above, these should be opened under the authority of Secretary, Establishment Division. The Chairman, CBR is, however, authorised to open the declaration of assets of Custom Officers and scrutinize them as directed by the President vide directive No.430 of 1980.

2. It has been observed that declarations of officers of Grade 17 and above belonging to services/groups other than the groups controlled by the Establishment Division are also being sent for maintenance in the Establishment Division. Since this practice is against the instructions issued from time to time, all Ministries/Divisions are required to strictly follow the said procedure.

(Authority: Estt. Division letter No.2/1/81/-D.A, dated 29.11.81
endorsed vide NWFP Govt. letter No.SORII(S&GAD)5-2/79, dated 21.12.1981)

**Extraneous influence by Government
Servants in respect of service matters.**

It has been observed that Government servants, at times, attempt to bring extraneous influence in respect of service matters, such as posting transfer, deputation etc. These acts are not only in breach of Government Servants (Conduct) Rules, 1964 as amended but also constitute Misconduct in terms of Rule 2(4) of the Government Servants (Efficiency and Discipline) Rules,1973, reproduced below**:-**

> "'Misconduct' means conduct prejudicial to good order or service discipline or contrary to Government Servant (Conduct) Rules, 1964 or unbecoming of an officer and gentleman and includes any act on the part of a Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government Servant".

2. The Civil Servants are, therefore, advised in their own interest to scrupulously observe the provisions contained in the Government Servants Conduct and Discipline Rules. In future if any Civil servant attempts to bring extraneous influence in respect of his posting, transfer, deputation etc., a note to this effect will be placed in his CR dossier, unless of course, proposals on these matters are made by the Ministries/Divisions/Departments themselves formally to the Establishment Division.

3. These instructions may please be brought to the notice of all civil servants working in various Ministries/Divisions/Departments etc.

(Authority: Establishment Division D.O letters No.5/4/82-D.I, dated 28.4.1982 circulated by NWFP vide
Circular letter No.SORII(S&GAD)5/2/79, dated 6.5.1982)

**Extraneous influence by Government
Servants in respect of service matters.**

Certain Government servants continue to bring extraneous influences in respect of their service matters such as appointment, posting, transfer, promotion, deputation, retirement, punishment or other conditions of service. As already explained, such practice is against the spirit of good order of or service discipline and provision of Rule 29 of the West Pakistan Government Servants(Conduct) Rules,1966 and rule 2(e) of NWFP Civil Servants (Efficiency and Discipline) Rules,1973.

2. It is directed to reiterate the instructions already issued and request you to kindly ensure that all concerned strictly abide by the relevant provisions failing which departmental proceedings may be initiated against defaulting civil servants.

(Authority: Circular letter No.SORII(S&GAD)5(2)79, dated 5.11.1985)

Issuance of Statements/Letters
to the Press by Government Servants.

Under the provision of West Pakistan Government Servants (Conduct) Rules, 1966 , no Government Servant shall, except with the previous sanction of Government or any other authority empowered by it in this behalf, participate in a Radio broadcast, contribute any article or write any letter, either anonymously or in his name or in the name of another person, to any newspaper or periodical, to publish any document, to deliver any public utterance or radio broadcast, or to make any statement of fact or opinion, which is capable of embarrassing the Federal or any Provincial Government.

The above instructions may be brought to the notice of all concerned under your Administrative control for compliance.

(Authority: Circular letter No.SORII(S&GAD)5(2)79, dated 14.12.1983)

Issuance of Statements/Letters
to the Press by Government Servants.

It has come to notice that certain Government servants continue to contribute to newspaper columns which tend to be critical of the Government and its policies occasionally or on a regular basis, in their own names or under pseudonymous.

2. As already explained, such public criticism of Government policies is inadmissible under the West Pakistan Government Servants (Conduct) Rules, 1966.

3. The President has been pleased to direct that all persons in the Service of the Government or of an Organization financed from the public exchequer be made to observe the relevant provisions on the subject in the West Pakistan Government Servants (Conduct) Rules, 1966.

4. I am accordingly directed to reiterate the instructions already issued and request you to kindly ensure that all concerned abide by the relevant provision i.e rule 21 of the West Pakistan Government Servants (Conduct) Rules,1966.

(Authority: Circular letter No.SORII(S&GAD)5(2)79, dated 14.9.1985)

Unauthorised interviews by Government Servants to
Local or Foreign News Media.

It has come to the notice of the President that certain officers gave interviews to a Team of foreign News Organization during the course of which they made certain observations that created an adverse effect and did not correctly portray the Government's

position in the matter. The President has taken a serious view of this incident particularly when the officers concerned had neither been formally permitted to give the interview nor duly briefed before-hand.

2. It may be pointed out that under the rules, no Government servant is to grant interviews to local or foreign media unless specifically permitted to do so. According to Rule-18 of the West Pakistan Government Servants (Conduct) Rules, 1966, no Government servant shall, except in accordance with any special or general orders of Government, communicate directly or indirectly any official information or the contents of any official document to a Government servant not authorised to receive it or to a non-official person or to the press. Similarly, Rule-22 of the rules ibid lays down that no Government servant shall, in any document published, or in any public utterance, or radio broadcast delivered by him or Television programme or in any manner make any statement of fact or opinion which is capable of embarrassing the Federal or any Provincial Government; provided that technical staff of all categories may publish research papers or technical subjects if such papers do not express views on political issues or on Government policy and do not include any information of a classified nature.

3. The above rules and instructions may kindly be brought to the notice of all Government servants with a view to ensure that no Government servant grants an interview to local or foreign media unless specifically permitted to do so. And when such a permission is granted, the Government servant concerned should be thoroughly briefed and parameters of interview should be clearly laid down by the competent authority. Violation of the above instructions is liable to attract disciplinary action against the Government servant concerned.

(Authority: NWFP Govt. Circular letter No. SORII(S&GAD)5(2)79, dated 11.8.86.)

Acceptance of Foreign Awards by Government Servants.

Article 259(1) of the Constitution of the Islamic Republic of Pakistan provides that no citizens shall accept any title, honour or decoration from any foreign State except with the approval of the Federal Government. Similarly, in terms of Rule-6 of the NWFP Government Servants (Conduct) Rules,1987 contain similar provisions to the effect that no Government servant shall except with the approval of the Governor of NWFP accept a foreign honour, title or decoration. It has, however been noticed by the Federal Government with great concern that contrary to the laid down rules, there have been several instances where Government servants have accepted title, honour or decoration from foreign states. Invariably the excuse for having accepted awards by Government servants is ignorance of the rules. The competent authority has accordingly taken a serious notice of this tendency and has been pleased to direct that the rule position may be disseminated to all the Government Servants for strict compliance.

2. I am accordingly directed to request that the relevant provision of rules ibid may please be brought to the notice of all Government Servants for strict compliance failing which they shall render themselves liable to strict disciplinary action under the NWFP Government Servants(Efficiency and Discipline) Rules,1973.

(Authority: Circular letter No.SORII(S&GAD) 5(2)79, dated 31.10.1988) and 8.11.1988).

Acceptance of Gifts.

In terms of Rule-5(4) of the NWFP Government Servants (Conduct) Rules,1987, "Government Servants are prohibited from receiving gift of any kind for their persons or for members of their families from diplomats, consulars and other foreign Government representatives or their employees who are stationed in Pakistan If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the S&GAD".

2. I am therefore, to request that strict compliance of the above provision of the rules may please be ensured.

(Authority:Circular letter No.SORII(S&GAD)5(3)79(KC), dated 18.4.1989)

Acceptance of Gifts/Cash Awards/Tickets for Air Travel abroad.

In terms of Rule 5(4) of the NWFP Government Servants(Conduct) Rules,1987, read with this Department Circular letter of even number dated 18th April,1989, Government servants are prohibited from receiving gifts of any kind for their persons or for members of their families from diplomats, consulars and other foreign Government representatives or their employees who are stationed in Pakistan. Similarly, sub-rule (5) of the rule ibid, prohibits Government servants (except those drawing pay in BPS 1 to 4) from accepting cash awards offered by the visiting foreign dignitaries.

2. Instances have come to the notice of the Provincial Government that awards in the shape of tickets for Air Travel abroad for Hajj and Umra or any other private visits abroad offered by the representatives of foreign Governments to various officers and staff were readily accepted and utilized by them without reporting the same to the Government.

3. I am directed to request you to please inform all Government servants working under your control not to accept Gifts, Cash Awards(except in accordance with the prescribed procedure)or tickets etc. for air travel abroad from diplomats, consulars, other foreign Government representatives or their employees or other International Agencies, without the previous sanction of the Government and refuse the same to them politely. Any contravention of the rules and instructions on the subject may lead to severe disciplinary action against the defaulter.

(Authority:Circdular letter No.SORII(S&GAD)5(3)79, dated 12.6.1991)

Acceptance of Gifts.

Rule 5 of NWFP Civil Servants (Conduct) Rules,1987 read with this Department Circular letters of even number, dated 18.4.1989 and 12.6.1991 on the subject noted above, where under Civil Servants are prohibited from receiving gifts of any kind for their person or for members of their families from diplomats, consulars and other Foreign Government Representatives or their employees stationed in Pakistan . It was also clarified that if due to very exceptional reasons, a gift can not be refused, it should invariably be deposited in the Services and General Administration Department. However, the Cabinet Division has advised that the gifts which are not allowed to be retained by Civil Servants(Federal, Provincial or All

Pakistan), should invariably be deposited in the Toshakhana of the Cabinet Division as no Provincial Government has set up a Toshakhana of its own so far.

2. It is requested that the matter of receipt of any gift (irrespective of its price) and cash award should invariably be reported by the recipient to Services and General Administration Department immediately so as to approach Cabinet Division well in time for necessary instructions in the matter.

3. It is further requested that these instructions may please be brought to the notice of all employees (including those working in the Autonomous/Semi-Autonomous Bodies) under your administrative control for their information, guidance and strict compliance.

(Authority:Circular letter No.SORII(S&GAD)5(3)79(KC), dated 20.4.1992).

Projection of Government activities through Radio Programme.

Radio Pakistan has embarked upon a new pattern of broadcasting from 1st January,1987. The major objectives of the new concept is to make broadcasting people oriented and life-related. In this way, not only are aspirations of the listeners met but the programs also provide an opportunity to project development activities of the Government, particularly the measures taken by the present democratic Government in different sectors and steps taken for the implementation of the Prime Minister's Five Points Programme.

2. The programmes over a period of nearly two months have come in for favourable comments for airing public views on various civic issues. Full opportunity is provided to official Agencies also to put forth their points of view on difficulties being faced by them. In this manner, the Programmes are intended to serve the public and could act as a catalyst of public opinion and official response for the general benefit of all concerned. This will help closing the gap between official view-points and of general public.

(Authority:Circular letter No.SORII(S&GAD)5(2)79, dated 24.3.1987)

Direct correspondence with Foreign Missions and Aid giving Agencies.

Sub-rule(1) of rule 35 of the NWFP Government Servants (Conduct) Rules, 1987, provides that no Government servant shall approach directly or indirectly a foreign Mission in Pakistan or any foreign aid-giving agency in Pakistan or abroad to secure for himself invitations to visit a foreign country or to elicit offers of training facilities abroad. Sub-rule(2) of rule 39 of the NWFP Rules of Business,1985 and Instruction No.133 of the Manual of Secretariat Instructions allow only the Administrative Departments of the Provincial Government to conduct normal correspondence with the Government of a Foreign country or a Pakistan Diplomatic Mission abroad or a Foreign Mission in Pakistan or International Organization through the Ministry of Foreign Affairs of the Federal Government provided that by means of general or special orders, direct correspondence may be allowed under such conditions and circumstances as may be specified by the aforesaid Ministry.

2. An instance has been brought by the Economic Affairs Division to the notice of the Provincial Government wherein an officer instead of routing his request to that Division

through his parent Department, directly approached the Chief of a Foreign Aid Giving Agency requesting him for his nomination on a course in a specific field. This conduct on the part of an officer is prejudicial to good order and service discipline and is contrary to the provision of Government of NWFP Government Servants (Conduct) Rules, 1987.

3. I am accordingly directed to request that the relevant provision of law may please be brought to the notice of all Government servants for strict compliance failing which a defaulter shall render himself liable to strict disciplinary action under the NWFP Government Servants(Efficiency and Discipline) Rules,1973.

(Authority:Circular letter No.SORII(S&GAD) 5(2)79, dated 10.8.1987)

Grant of Interviews to officials by Chief Minister and Ministers in NWFP.

Under the existing instructions, Government servants are expressly forbidden to wait upon the Chief Minister and other Ministers without prior permission of the competent authority in connection with their personal/official problems or to exert pressure through Members of the Provincial or National Assemblies in violation of Rules 22 and 34 of the NWFP Government Servants (Conduct) Rules,1987.

2. While the Chief Minister or the Ministers are on tour, they can send for any officer through proper channel viz. the local Head of the Department or the higher senior officer present in the station. The District level officers or the senior most officers at the spot could seek an interview with the Ministers without the permission of the Head of the Department at Peshawar if the permission for interview could not be obtained previously due to shortage of time. But in case a Government servant wishes to see the Chief Minister or a Minister for laying any personal matter before him either at the Provincial headquarters or otherwise, prior sanction of the Head of the Department must be obtained. I am to clarify that submission of representations, appeals or complaints directly to the Chief Minister and other Ministers, without observance of the prescribed channels, is also a serious act of 'misconduct'.

3. I am directed to request you to please inform all concerned that the Chief Minister and other Ministers are accessible to every one and are anxious to remove all legitimate grievances but where a Government servant has to wait upon them for any personal problems, he must obtain prior written permission of the competent authority.

(Authority: Circular letter No.SORII(S&GAD) 5(27)79, dated 7.3.1988)

Fraternization between Government Servants and the Foreign Missions in Pakistan.

Instructions have been issued from time to time, explaining the parameters within which a Government servant could cultivate contacts with the personnel of the foreign missions in the country. In this connection, attention is invited to this Department Circular letter of even number dated 10th August,1987. It has, however, come to the notice of the Government that despite clear orders, there exists a tendency amongst Government officials to approach the foreign missions, directly or indirectly, for personal favours as well as consular facilities. Such acts, obviously, are clear violation of Rule-35 of the NWFP Government Servants (Conduct) Rules, 1987 and the aforesaid instructions issued thereunder.

2. The Government has taken a serious view of the above tendency amongst Government Servant and it has, therefore, become imperative to circulate the following Government instructions on the subject once again for strict compliance by the Government servants:-

1) Government servants should exercise great caution and restraint in the matter of social contacts with the members of foreign missions in Pakistan and inter-alia abstain from extending invitations to them for private lunches/dinners at their residences etc.

2) Official of the level of Deputy Secretary and below should not receive the officials of the Foreign missions, except with the express permission of the Secretary.

3) Government Servants are also prohibited from contacting or making direct approaches, to the foreign missions in Pakistan, in connection with their private business. All such approaches should be made through proper channel i.e the Chief of Protocol of the Ministry of Foreign Affairs.

4) Invitations extended by the foreign missions on the occasions of their National Days, to the officers below the status of Secretaries, may be accepted only after obtaining permission from the Secretary.

5) The participation of officers, below the status of Secretary, in private functions, arranged by the foreign diplomats, should generally be discouraged. Secretaries and officers of equivalent status will, however, do so with the prior approval of the Chief Secretary.

6) Repeated and frequent attendance by the officers, at private functions held by the same foreign diplomats must be avoided.

7) As a general rule, only those officers who come into official contact with the foreign diplomat concerned, should accept this invitation.

3. You are requested to kindly ensure compliance of the above instructions, at all levels, and that no one approaches, directly or indirectly, any foreign missions in Pakistan or any foreign aid-giving agency, for favours. It may also be brought to the notice of all concerned that any violation of the rules as well as the instructions issued on the subject from time to time, will be dealt with severely under the NWFP Government Servants(Conduct) Rules,1987 and the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.

(Authority: Circular letter No.SORII(S&GAD)5(2)79, dated 23.5.1990.)

Grant of Interviews to officials by Chief Minister and Ministers in NWFP.

This Department circular letter of even number, dated 7th March, 1988, on the subject noted above in which it was requested to inform all concerned that Government Servants, wishing to wait upon the Chief Minister and other Ministers in connection with their grievances, must obtain prior written permission of the competent authority.

2. It has come to notice that the Government Servants continue to wait upon the Chief Minister and other Ministers without prior permission of the competent authority in connection with their personal/official problems or exert pressure through the Members of the Provincial or National Assemblies in violation of Rules 24 and 34 of the NWFP Government Servants (Conduct) Rules, 1987, as well as the aforesaid instructions.

3. I am directed to request you once again to warn all concerned that in future strict disciplinary action would be taken against the defaulters under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.

(Authority: circular letter No.SORII(S&GAD)5(27)79, dated 11.1.1989)

**Submission of Appeals/Petitions/
Representations etc. by Civil Servants.**

It has been pointed out by the Prime Minister's Secretariat(Public) that certain Government Servants (Federal as well as Provincial) submit applications/ petitions direct to the Prime Minister in respect of various subjects, including their service matters. Instances have also been noticed where relatives of Government Servants or their friends have approached the Chief Executive on behalf of Government Servants about their service matters. This is against the spirit of the instructions issued by the Federal Government as well as the Government of NWFP from time to time. In this connection attention is also invited to the S&GAD's recent Circular letters No.SOR.II(S&GAD)5(27)/79, dated 7.3.1988 and 11.1.1989 wherein inter alia it was clarified that submission of representations, appeals or complaints directly to the Chief Minister and other Ministers without observance of prescribed channel is a serious act of misconduct. However, it appears that the above instructions have either been lost sight of or the Departments have taken a lenient view thereof.

2. I am accordingly directed to request that the relevant instructions on the subject may please once again be brought to the notice of Government Servants for strict compliance. It may please be ensured that in future all appeals/petitions/representations by the Government Servants are addressed to the prescribed authority only and through proper channel failing which strict disciplinary action would be taken against the defaulters under the NWFP Government Servants(Efficiency and Discipline) Rules,1973.

(Authority:Circular letter No.SORII(S&GAD)5(27)79, dated 17,.5.1989)

**Use of influence by Government
Servants in service matters.**

The Establishment Secretary, Government of Pakistan vide his D.O letter No.5/4/82-D.I, dated 27.5.1990 on the above subject has observed that despite clear instructions, Government servants have developed a tendency to bring extraneous influence for redressal of grievances to bear upon the Government while such action not only violates Rule 22 of NWFP Civil Servants(Conduct) Rules,1987, but also constitutes 'Misconduct' in terms of NWFP Civil Servants(Efficiency and Discipline) Rules,1973. In this connection, attention is also invited to the S&GAD circular letters No.SORII(S&GAD)5(27)/79, dated 7.3.1988, 11.1.1989 and 17.5.1989, wherein inter alia it was clarified that submission of representations, appeals or complaints through MNAs, MPAs and Ministers without observance of the prescribed channels is also a serious act of 'Misconduct' . Nevertheless, it

appears that these instructions have either been lost sight of or the departments have taken a lenient view thereof.

2. It is requested that the instructions contained in the Establishment Secretary's D.O letter and the S&GAD letters quoted above, may be brought to the notice of all Government servants serving under your control that in future, any attempt to bring to bear political influence in service matters will be construed as 'Misconduct' and will be dealt with in accordance with NWFP Government Servants (Efficiency and Discipline) Rules,1973, and other instructions issued thereunder. Besides a note to this effect may also be placed in the Character Roll dossiers of the defaulters.

(Authority: NWFP Govt. vide circular letter No.SOR.II(S&GAD)5(27)/79, dated 9th July 1990.)

Use of extraneous / Political influence by Government Servants in respect of service matters.

This Department letters of even number dated 7.3.1988, 11.1.1989, 17.5.1989 and 9.7.1990 regarding above noted subject wherein inter-alia , it was clarified that exercise of political influence in service matters or submission of representations, appeals or complaints through public representatives and Ministers without observing prescribed channel constitutes a serious act of 'Misconduct'. Accordingly, it was requested to advise all concerned to refrain from using political pressure in their service matters. It was reiterated that meeting with Chief Minister and Ministers in connection with personal / official problems without prior permission of the Competent Authority or exerting of pressure through Members of Provincial or National Assembly is violation of Rules 22 and 34 of the NWFP Government Servants (Conduct) Rules,1987.

2. It has however come to notice that Government Servants continue to exert political pressure in service matters and un-authorisedly wait upon the Chief Minister & Ministers in violation of Rules 22 and 34 of the NWFP Government Servants(Conduct) Rules,1987 as well as the aforesaid repeated instructions.

3. The Chief Minister NWFP has taken a serious notice of this state of affairs and has been pleased to direct that in future strict disciplinary action should be taken against the defaulters under the NWFP Government Servants(Efficiency & Discipline) Rules, 1973 and a note to this effect be also placed in the Character Roll dossier of the defaulters.

(Authority:Circular letter No.SORII(S&GAD)5(27)79, dated 24.11.1990)

Use of influence by Government Servants in service matters.

It has been observed that despite clear instructions, Government servants have developed a tendency to bring extraneous influence in service matters such as Posting, Transfer and Promotion etc. I am to clarify that such an action not only violates Rule 22 of NWFP Civil Servants (Conduct) Rules,1987 but also constitutes 'Misconduct' in terms of NWFP Civil Servants (Efficiency and Discipline) Rules,1973. In this connection attention is also invited to the S&GAD Circular letters No.SORII(S&GAD)5(27)/79, dated 7.3.1988, 11.1.1989, 17.5.1989, 9.7.1990 and 24.11.1990 wherein inter-alia it was clarified that submission of representations, appeals or complaints through MNAs, MPAs and Ministers

without observance of the prescribed channels is also a serious act of 'Misconduct'. Nevertheless, it appears that these instructions have either been lost sight of or the departments have taken a lenient view thereof.

It is requested that the instructions contained in the Establishment Secretary's D.O letter and the S&GAD letters quoted above may be brought to the notice of all Government Servants serving under your control that in future, any attempt to bring to bear political influence in service matters will be construed as 'Misconduct' and will be dealt with in accordance with NWFP Government Servants(Efficiency and Discipline) Rules, 1973, and other instructions issued there under. Besides a note to this effect may also be placed in the Character Roll dossiers of the defaulters.

(Authority:Circular letter No.SORII(S&GAD)5(27)79,dated 5.9.1995)

Extraneous influence by Government Servants in respect of service matters.

Establishment Secretary's D.O letters of even number, dated 5th July,1995, and 18th April,1996 on the subject noted above.

2. In order to curb the general tendency among the Civil/Government servants to the extraneous influence in contravention of Rules 22 and 34 of the NWFP Government Servants (Conduct) Rules, 1987, the present Government has decided to take effective steps on the subject. This includes suspension of any civil/Government servant accused of the said contravention followed by expeditious E&D proceedings.

3. It is accordingly requested that, henceforth, all cases of contravention of the said rules must be dealt with by placing the defaulter under suspension, in the first instance, with the approval of the concerned competent authority. It may be ensured that this action is taken without loss of time.

4. It is further requested that copies of suspension orders and in due course, the final orders in such E&D proceedings, may also be forwarded to this Division.

5. This D.O. letter may please be brought to the notice of all Federal civil/Government servants working in various Ministries/Divisions/ Departments/ Provincial Governments.

(Authority:Establishment Division D.O letter No.5/4/82-D.I, dated 7.11.1996,
circulated vide NWFP Government No.SORII(S&GAD)5(27)/79(C), dated 16.12.1996)

Direct correspondence by the Civil Servants/Grant of Interviews to officials by the Chief Minister and Ministers etc./ Extraneous Political and non Political influence in service matters.

It was repeatedly directed to ensure that all civil servants should refrain from use of extraneous/political influence, submission of appeals/Petitions/ Representations etc. without proper channel, wait upon the Chief Minister and other Ministers etc. without prior permission of the competent authority in connection with their personal / official

problem(s)and to exert pressure through the Members of the National and Provincial Assemblies.

2. Instances, have, however, come to notice that despite the aforesaid instructions, Civil Servants still on their own or through their relatives/friends or political personalities continue to submit representations/appeals regarding their service matters individually or jointly which is obviously against the rule of law and fair discipline.

2. I am accordingly directed to request that all civil Servants serving under your control may be directed once again to strictly observe provisions contained in the Government Servants Conduct Rules and (Efficiency and Discipline) Rules as well as the instructions. In future if civil servant(s) is/are found deviating from the provisions of the rules and laid down procedure and the aforesaid instructions, severe disciplinary action shall be initiated against them and a note to this effect shall also be placed in their ACR Dossiers. Authorities ignoring such in-discipline and not initiating disciplinary action against the defaulters shall also render themselves liable to disciplinary action under the Efficiency & Discipline Rules.

3. The aforesaid instructions may be brought to the notice of all concerned and ensure strict compliance.

(Authority: Circular letter No.SORII(S&GAD)5(27)79, dated 22.12.1991.)

Seeking prior permission by Provincial Government officials for attending meetings with Chairman Senate/Speaker National Assembly.

It has been observed that the Provincial Government Officers who attend the meetings with the Chairman Senate and Speaker, National Assembly do not obtain prior permission of the Competent Authority for firming up the views of Provincial Government in connection with the matters deliberated upon in such meetings. It has therefore been decided that no officer of the Provincial Government or the Autonomous/Semi-Autonomous Body of the Province shall attend a meeting with the Chairman Senate or Speaker National Assembly without obtaining prior permission of the Provincial Government and getting his brief cleared from the Chief Secretary/Chief Minister.

2. The aforesaid instructions may please be brought to the notice of all concerned for strict compliance in future.

(Authority: Circular letter No.S (O&M-I)S&GAD)/10-5/91, dated 27th February,1992)

Government Employees and their illegal involvement in Radio-Broadcast and communications to the Press.

Under Rules 21, 24 and 25 of the NWFP Government Servants (Conduct) Rules,1987, no Government Servant is to grant interviews to local or foreign media unless specifically permitted to do so. Besides, no Government Servant shall, except in accordance with any special or general orders of Government, communicate directly or indirectly any official information or the contents of any official document to a Government servant not authorised to receive it or to a non-official person or to the press.

2. It has, however, come to the notice that certain Civil Servants do not abide by the requirements of law and the aforesaid instructions. The Governor, NWFP has, therefore taken a serious view of this indiscipline and has been pleased to direct that the said illegal practice should be stopped forthwith.

3. Factual position of rules and policy instructions referred to above may once again be brought to the notice of all Government servants for strict compliance.

(Authority: Circular letter No.SORII(S&GAD)5(2)79(B), dated 10.6.1992)

Conduct of Civil Servants-
Taking part in Politics and Elections.

Rules 27 of the NWFP Government Servants(Conduct) Rules,1987, which inter-alia provides as under**:-**

TAKING PART IN POLITICS & ELECTIONS.

1) No Government servant shall take part in, subscribe in aid of, or assist in any way any political movement in Pakistan or relating to the affairs of Pakistan.

2) No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement directly or indirectly, to be subversive to Government as by law established in Pakistan.

3) No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere.

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

4) No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule (3) to act.

5) A Government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule(3) to have taken part in any election to such body.

2. The above mentioned provisions obligate that civil servants would always exercise utmost care and caution for the strict observance of the prescribed rules for their behaviour

and conduct, not only necessary in their own personal interest but also keeping in view the supreme national interests.

3. I am, therefore, directed to request to please bring the above position to the personal notice of all officers/officials working under you and remind them of their service and constitutional responsibilities.

(Authority:Circular letter No.SORII(S&GAD)5(2)79(C), dated 11.5.1993)

Taking part in Politics by Government Servants and Employees of Corporations and other Institutions set up by or under the Management or Control of Government.

The West Pakistan Government Servants (Conduct) Rules, 1966 which are still applicable to the Civil Servants of the Government of NWFP categorically prohibit the Civil Servants and their dependents to take part in politics or to convass for candidates in elections. However, such a prohibitory clause does not appear to have been made in the Service Regulations of Autonomous/Semi Autonomous Bodies/Corporations of the Provincial Government. It is, therefore, imperative that as in the case of Provincial Civil Servants, a prohibitory clause is provided for the employees of Autonomous/ Semi Autonomous Bodies and Corporations of the Provincial Government and their dependents in the Service Regulations of the Body/ Corporation concerned. It is requested that in case no prohibitory clause to the above mentioned effect already exists in the charter of Autonomous Body/ Corporation under your Administrative Control, the same should be incorporated in the relevant rules now and compliance reported to the S&GAD by 31st July, 1978 at the latest for onward transmission to the Federal Government.

(Authority:S&GAD letter No.SOR.II(S&GAD)10-1/78, dated 1.7.78)

Conduct of Civil Servants-taking part in Politics and Elections.

This Department Circular letter No.SORII(S&GAD)5(2)/79(C), dated 11th May,1993 wherein it was requested that the civil servants working under you be directed to exercise utmost care and caution for strict observance of Rule-27 of the NWFP Government Servants(Conduct) Rules,1987 which inter-alia prohibits the Government servants and their family members depending on them to indulge in any political activity including canvassing or use of influence in connection with elections to a legislative body.

2. The General Elections of the National and Provincial Assemblies are going to be held in the month of October this year. All the Government Servants working in various Government Departments should be reminded once again to refrain from taking part in politics either directly or indirectly.

3. It is, therefore, requested that these instructions may please be brought to the personal notice of all officers/officials working under you to strictly observe Rule 27 of the Government Servants (Conduct) Rules,1987. Any breach of the standing instructions shall be viewed seriously and action against the defaulting Government Servants should be taken under the Government Servants(Efficiency and Discipline) Rules,1973, under intimation to this Department.

(Authority:Circular letter No,SORII(S&GAD)5(2)79(C), dated 12.8.1993)

Promotion of simple living

In pursuance of the Government's determination to effect reforms in all spheres of national life, they have among others decided to focus public attention on the need for simple living and to enforce it where necessary through Governmental action. The President has recently been pleased to emphasis the necessity of simple living as a pre-requisite to our living within our individual and national resources. Broadly speaking, the reasons for promoting simple living are:-

(a) Living beyond our means has serious economic consequences for the individual as well as for the nation. The individual is unable on account of over-spending, to build for the future while the nation suffers in a two-fold way; firstly, it is not able to accumulate capital for investment and secondly, it loses valuable foreign exchange which would otherwise, be spent on building up its industry or improving its agriculture or in buying other things essential for the health and general well being of the population.

(b) The craze for ostentatious living leads to unhealthy competition and a race for making money by any means, fair or foul. This can corrupt the public and social life of the country and demoralize public servants.

(c) The desire to be in line with the latest fashion leads to imitating, in the minutes, details the latest trends in Europe in the matter of dress, food, drink, etc. This involves loss of national individuality and self respect which are very necessary pre-requisites for evolving a distinct national out-look and character pattern.

2. In order that the wasteful effects of over-spending and artificially high standards of living are eliminated, a movement has already been launched by the Women Voluntary Group to induce ladies to cut down waste in dress, food and entertainment. Some steps have been taken to popularise the movement among men, particularly Government servants. The following specific measures should be adopted by all Pakistani and particularly by Government servants:-

(a) Dress-

(i) For summer Bush-shirt (include an open collar shirt i.e without tie) and trousers, and for winter trousers, jacket and necktie or Sherwani and trousers may be worn.

(ii) For formal and ceremonial occasions the dress as already prescribed may be worn by all Pakistanis.

(b) Drinks and Edibles-

(i) The use of alcoholic drinks should be discouraged at Public functions and parties.

(ii) The import of foreign ingredients for the preparation of edibles should be discouraged.

(iii) Government may convey its displeasure to officers who live beyond their means.

(c) Miscellaneous-

(i) Expenditure in the Tiffin rooms of Secretariat Offices should be decreased to minimum.

(ii) Home products must be used and popularized.

3. Understanding of real values of life must result in discarding the ostentatious and superfluous. The obligation to make full contribution towards national development can be based only on fervent patriotism. The Government expect all Pakistanis to rise to this test of patriotism and to practice it to the limit that it merits. In the context of the greater obligation practicing of austerity in every sphere of life should be a small matter. Government hopes that Government servants who constitute the largest educated group in the country will set an example in this respect to their fellow-citizens and with sacrifice and determination make Pakistan strong, prosperous and respectable in the eyes of the world. It is requested that contents of this letter may be brought to the notice of all concerned and particularly Government servants working under you. The process in the case of the later should be repeated every quarter of the year until the object is achieved.

(Authority:West Pakistan S&GAD letter No.S.VIII-3-102/59, dated 15.7.59 & 29.7.59)

Government Servants – Attendance at evening classes.

In supersession of previous instructions on the above subject, the West Pakistan Government has decided as under**:-**

(a) Government servants should not under any circumstances be allowed to attend any classes or courses during office hours.

(b) Outside office hours, they may attend classes/courses. No formal permission is necessary in such cases. They may only inform the Head of their Department that they are attending such classes/courses. If, however, it is found that by attending such classes/courses, the work of the Government servant is suffering, the Head of the Department may, by an order, stop the Government servant from attending such classes/courses.

(c) Administrative Secretaries/Heads of Attached Departments are requested to please report after a year the number of Government servants under their control who undertook such studies and how many of them left service after completing the course, and also whether the studies interfered with their efficiency. They may also suggest whether any modifications are necessary in this policy.

(Authority:West Pakistan S&GAD letter No.S(R)3571/26/58/SOXII,dated 21.6.60)

Government Servants - Attendance at Evening Classes.

Reference correspondence ending with this Department circular memorandum No.S(R)1151/1-26/SOXII, dated the 27th April, 1962 on the subject noted above.

2. Since the public interest is paramount in all cases, the fact that a Government servant is attending evening classes cannot in itself be a reason for not transferring him. If his transfer can be avoided without causing any loss to the efficiency of the Department then such a Government servant may be allowed to continue at the station of his posting so long as his course of study requires.

3. The competent authorities, while allowing officials serving under them to study in evening classes, should, however, carefully go into the question whether the official is likely to be transferred from his station. If so, permission in his case should be refused.

(Authority:West Pakistan S&GAD letter No.S(R)153/1-26/58,SOXIII, dated 4.2.63)

Desertion of duty by Government servants.

Cases may have come to the notice of the competent authorities, where Government servants have applied for leave but before the leave was sanctioned they have absented themselves from duty and left their station without permission, while Government dues were payable by them on various accounts. In some cases, Government servants may have proceeded on short leave and subsequently applied for extension of leave, which was not granted whereupon they may have resigned their appointment without clearing the Government dues outstanding against them.

2. Such behaviour on the part of Government servants is not only undesirable, but also contravenes the provisions of the West Pakistan Essential Services(Maintenance)Act,1968, which make all employment under Government an essential service.

3. If any Government servant, without reasonable excuse abandons his employments or absents himself from work, he is liable on conviction to be punished with imprisonment and fine under section 7 read with section 5 of the Act.

4. It is pointed out that a Government servant abandons his employment if he ceases to serve without the previous consent of the competent authority.

5. It is, therefore, requested that the attention of all Government servants may kindly be drawn to the provision of the Act and they may be warned that any contravention of the act renders them liable to prosecution.

6. It is pointed out that under section 7(3) of the Act, no court shall take cognizance of an offence under the Act except upon complaint in writing made by an officer empowered by the Government in this behalf. The Provincial Government have already issued Notification No.SOXII-1-61/57, dated 29th May, 1958 published in the Extraordinary Gazette of West Pakistan, dated the 30th May,1958 according to which the Superintendents of Police of all the District of West Pakistan (except the Federal Capital and special areas) have been empowered to lodge complaints in writing in respect of the offences under the Act committed within their respective jurisdiction.

(Authority:West Pakistan S&GAD letter No.SOCII-2-197/61, dated 24.12.60)

Permission to Government servants to raise funds for Cultural and other non-official purposes-Criteria to be followed.

In continuation of the Establishment Division office Memorandum No.4/39/61-EVI, dated the 26th July, 1961, on the above subject, the undersigned is directed to say that the following further criteria have been laid down by Government to regulate the raising of funds by Government servants:-

(i) The "next higher authority" for the purposes of permission should be the next higher officer of the Government servant concerned, but where the next higher officer is below the rank of a Head of the Department, the permission of the Head of the Department concerned should be obtained through the next higher officer.

(ii) No coercion or pressure campaign should be used in the raising of funds. The basis of the campaign should be kept purely voluntary and every precaution should be taken to keep this entirely unconnected with the official matters.

(iii) The Police and Income-Tax authorities should be prohibited from taking part in any collection of funds.

(iv) Collection of funds should take place outside office hours and it should not interfere with or hamper in the performance of the official duties of the Government servants concerned.

(v) The authority permitting the raising of funds, should satisfy itself that these are utilized for the purposes for which these have been collected.

(vi) Fund should be collected to the extent it is necessary and care should be taken to see that the public are not unnecessarily burdened.

(vii) Foreign establishments and firms should not be individually approached but if in response to a general appeal for funds, they voluntarily contribute, this should be accepted, and

(viii) All subscription should be duly receipt of, accounted for and the accounts submitted to the higher officer for scrutiny.

(Authority:-W.Pak:S&GAD's letter No.S(R)-153/1-26/58-SOXIII,dated 4.2.1963.)

Acquisition of immovable property by Government Servants

A question has arisen whether Government servants who have left immovable property, both residential and agriculture in India can acquire by allotment or exchange similar property in West Pakistan without obtaining the previous sanction of Government. Since such acquisition are made under a judicial process on the basis of claims, Government have decided that no permission is required in such cases. Such transactions should, however, be reported to Government in the prescribed form from time to time under the normal Government Servants Conduct Rules.

2. On the question whether the wife and dependents of Government servants are required to obtain the previous sanction of Government for acquiring immovable property by purchase or gift. I am to say that under the existing rules, the wife and dependents of Government servants except those who are governed by the Sindh Civil Service, Conduct, Discipline and Appeal Rules, are not required to obtain the prior permission of Government before acquiring such property. Rule 15 of the Sindh Rule specially lays down that the wife and dependents of an employee of the former Sindh Government are not required to obtain the previous sanction of Government for acquiring immovable property by purchase or gift, and they shall continue to be governed by the rule even after integration.

3. In the case of Government Servants who are not governed by the Sindh Civil Service, Conduct, Discipline and Appeal Rules, it is obligatory to declare such acquisition of property.

(Authority:West Pakistan S&GAD letter No.S(R)66/1-3/58(III)-SOXIII, dated 20.3.63)

Government Servants Conduct Rules

It has come to Government's notice that Government servants make approaches through Ministers, Chief Ministers, M.N.As and M.P.As or other means for issue of permit to buy transportation vehicles or other important material and for purchase and sale of property.

2. Such acts are not only in serious breach of Government Servants Conduct Rules, but also contrary to all tenants of property and are totally unbecoming of Government servants. Government has, therefore, taken serious notice of such acts on the part of Government servants. In future, if any such case comes to notice a stern action will be taken against those involved. It is, therefore, requested to draw the attention of the Government servants, working in your Ministries/Divisions and Attached Subordinate offices and Autonomous Institutions to the Government Servants (Conduct) Rules, 1964, and direct them to refrain from making such requests in future.

(Authority:Estt:Division D.O Letter No.1/38-74-D-IV, dated 8.5.1974,
circulated by NWFP Govt. vide Circular letter No.SOS.III(S&GAD)3-95/70, dated 2.7.74)

Recognition of the new Employees Association -

In supersession of all previous instructions on the subject, the Governor of North-West Frontier Province, has been pleased to order that an Association formed by employees, who are civil servants within meaning of the NWFP Civil Servants Act, 1973, in order to communicate their representations to Government for consideration, may be recognized by the concerned appointing authority of the Civil Servants forming the Association provided the members/applicants agree to give in writing to abide by the following conditions:-

(i) Each such Association shall consist of persons in one and the same "functional unit".(Till new "functional unit" are formed in the context of Administrative Reforms, an Association may be formed by persons borne on a specific single cadre in or under a Department).

(ii) Office-bearers shall be elected from amongst members of the Association actually serving. Persons who retire or dismissed or removed from service shall cease to be members.

(iii) The Association shall neither affiliate nor associate with any other body or Association.

(iv) The Association shall confine its representations to matters of general interest and shall not involve itself in individual cases of its members. Also, the officer-bearers and members of the association shall not participate in the activities of the Association at the cost of their official duties.

(v) The Association shall not engage in any activity or pursue a course of action which the members are individually prohibited to engage in or pursue under any instructions of the Government, or any law or rules concerning conduct of civil servants and service discipline.

(vi) The Association shall not engage in any political activity, or contribute to, or seek the support of any political party.

(vii) The Association shall get its bye-laws or rules approved from the appointing authority who may at any time require any modification thereto or to propose rules or bye-laws, in a particular manner. The Association shall also submit lists of its members, office bearers and annual statement of accounts to appointing authority.

2. Government in the Administrative Department concerned shall be competent to order withdrawal of the recognition if, in its opinion, an Association has violated any of the conditions of recognition stated above. Orders passed by the Government regarding withdrawal of recognition shall be final.

3. In case of cadre which consists of higher and lower grades, the appointing authority for purposes of these instructions shall be the appointing authority of the highest grade and shall exercise powers under these instructions.

4. Each Association shall submit its representation to the concerned appointing authority and decisions on such representations shall also be communicated by the appointing authority which may, if it cannot decide the matter itself, obtain orders of the next higher authority or through it refer the matter to Government for decision.

5 A civil servant who deals with establishment matters pertaining to the functional unit or cadre in which he holds a post shall not become office bearer of the Association representing that functional unit nor shall take part in any activities of such an Association..

6. Nothing in these instructions shall be construed to fetter the discretion of the Government or appointing authority to refuse to receive the deputation of any association.

(Authority:S&GAD letter No.SOS.I(S&GAD)3-52/70, dated 1.11.76)

THE NORTH-WEST FRONTIER PROVINCE REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000

AN

ORDINANCE

to provide for dismissal, removal, compulsory retirement from service and reduction to lower post or pay scale of certain persons from Government service or corporation service.

WHEREAS, in view of prevailing circumstances, it is expedient and necessary in the public interest, and for furtherance of good governance, to provide for measures, inter-alia, relating to dismissal, removal, etc., of certain persons from Government service or corporation service as hereinafter appearing;

AND WHEREAS, it is necessary to provide for speedy disposal of such cases and for matters connected therewith or ancillary thereto;

AND WHEREAS, under the provisions contained in Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, the Governor of a province, on the instructions of the Chief Executive of Pakistan, may issue and promulgate an Ordinance if the circumstances exist which render it necessary to take immediate action;

AND WHEREAS the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers aforesaid and all other powers enabling him in that behalf, the Governor of the North-West Frontier Province, on the instructions of the Chief Executive of Pakistan, is pleased to make and promulgate the following Ordinance:

1. Short title, extent, commencement and application. (1) This Ordinance may be called the North-West Frontier Province Removal from Service (Special Powers) Ordinance, 2000.

(2) It extends to the whole of the North-West Frontier Province.
(3) It shall come in force at once.
(4) It shall apply to persons in Government service and/or corporation service.

2. Definitions---In this Ordinance, unless there is anything repugnant in the subject or context:

[96] (a) "competent authority" means the Chief Minister and where, in relation to any person or class of persons, the Chief Minister authorizes any officer or authority, not being inferior in rank to the appointing authority prescribed for the post held by the person against whom action is proposed to be taken, to exercise the powers of competent authority under this Ordinance, that officer or authority and, in relation to an employee of a Court or tribunal

[96] Section 2(a) substituted and proviso added. by N.-W.F.P. Act No. II of 2004.

functioning under Government, the appointing authority, or the Chairman or Presiding Officer of the Court or the Tribunal:

[97]Provided that in relation to the employees of Universities incorporated by law in the North-West Frontier Province, in respect of which the Governor is the Chancellor, the North-West Frontier Province Board of Technical Education and the Boards of Intermediate and Secondary Education in the North-West Frontier Province, the competent authority shall mean the Governor;

(b) "Government" means the Government of the North-West Frontier Province;

(c) "misconduct" includes conduct prejudicial to good order or service discipline or conduct unbecoming of an officer or gentleman or involvement or participation for gain either directly or indirectly in industry, trade or speculative transactions or abuse or misuse of the official position to gain undue advantage or assumption of financial or other obligations to private institutions or persons such as may cause embarrassment in the performance of official duties or functions;

(d) "persons in corporation service" mean every person in the employment of a corporation, corporate body, authority, statutory body or other organization or institutions set up, established, owned, managed or controlled by Government, by or under any law for the time being in force, or a body or organization in which Government has a controlling share or interest and includes the Chairman and the Managing Director, and the holder of any other office therein; and

(e) "persons in Government service" include every person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include:

(i) a person who is on deputation to the Province from the Federation or any other Province or other Authority;

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923);

but includes any employee serving in any court or tribunal set up or established by Government, except a Judge of the High Court or a court subordinate to the High Court and any employee thereof; and

(f) "Province" means the North-West Frontier Province.

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[97] Proviso added by NWFP Act No. II of 2004.

[98]**3. Dismissal, removal and compulsory retirement, etc. of certain persons in Government or corporation service, etc.—**(1) Where, in the opinion of the competent authority, a person in Government or corporation service is-

(a) inefficient, or has ceased to be efficient for any reason, or is guilty of habitually absenting himself from duty without prior approval of leave, or

(b) guilty of misconduct; or

(c) corrupt, or may reasonably be considered as corrupt, because,-

(i) he, or any of his dependants or any other person, through him or on his behalf, is in possession of pecuniary sources or of property, for which he cannot reasonably account for, and which are disproportionate to his known sources of income; or

(ii) he has assumed a style of living beyond his known sources of income; or

(iii) he has a persistent reputation of being corrupt; or

(iv) he has entered into plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily; or

(d) engaged, or is reasonably believed to be engaged, in subversive activities and his retention in service is prejudicial to national security or he is guilty of disclosure of official secrets to any unauthorized persons; or

(e) found to have been appointed or promoted on extraneous considerations in violation of law and the relevant rules,

[99]the competent authority, after inquiry by an Inquiry Officer or the Inquiry Committee appointed under section 5, may notwithstanding anything contained in any law, or the terms and conditions of service of such person, by order in writing, dismiss or remove such person from service, compulsorily retire him from service or reduce him to lower post or pay scale, or recover from pay, pension or any other amount payable to him, the whole or a part of any pecuniary loss caused to the organization in which he was employed or impose one or more minor penalties as prescribed in the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973, made under section 26 of the North-West Frontier Province Civil servant Act 1973 (N.W.F.P Act No. XVIII of 1973.)

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[98] Section 3 substituted by NWFP Ordinance V of 2001.
[99] Substituted by NWFP Ordinance No VIII of 2002

(2) Before passing an order under sub-section (1), the competent authority shall,-

(a) by order in writing, inform the accused of the action proposed to be taken with regard to him and the grounds of the action; and

(b) give him a reasonable opportunity of showing cause against that action within seven days or within such extended period as the competent authority may determine:

Provided that no such opportunity shall be given where-

(i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof it is not expedient to give such opportunity; or

(ii) the accused is dismissed under clause [100][(a) of sub-section (2) of section 3A] or where the competent authority is satisfied for reasons to be recorded in writing that it is not reasonably practicable to give the accused an opportunity of showing cause.

(3) The dismissal or removal or premature retirement from service or reduction to lower post or pay scale of a person under sub-section (1) shall not absolve such person from liability to any punishment to which he may be liable for an offence committed by him under any law, while in service.

[101]**3A. Procedure in case of conviction by a court of law.**---(1) Where a person in Government service or in corporation service on conviction by a court of law is sentenced to imprisonment or fine, the competent authority shall examine the facts and the grounds on which the order convicting such person was passed by a court of law.

(2) Where on examination the competent authority finds that order of imprisonment or fine is based on-

(a) established charges of corruption or moral turpitude, it shall pass order of dismissal from service of the delinquent person in Government service or in corporation service which shall be effective from the date of his conviction by a court of law; or

(b) charges other than corruption or moral turpitude it may, in the light of the facts and circumstances of the case, decide as to whether it is a fit case for taking departmental action under this Ordinance, and if it so decides it may, subject to the provisions of sub-section (2) of section 3, impose any penalty provided by this Ordinance as it may deem fit.

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[100] (a) of sub-section (2) of Section 3A added by Act No.XII of 2003.
[101] Section 3A added by N.-W.F.P. Ord. No. XII of 2003.

4. Suspension.--- A person against whom action is proposed to be taken under sub-section (1) of section 3 may be placed under suspension with immediate effect if, in the opinion of the competent authority, suspension is necessary or expedient:

Provided that the competent authority may, in an appropriate case, for reasons to be recorded in writing, instead of placing such person under suspension, require him to proceed on such leave, as may be admissible to him, from such date as may be specified by the competent authority.

[102]**5. Power to appoint an Inquiry Officer or Inquiry Committee.--**(1) Subject to the provisions of sub-section (2), the competent authority shall, before passing an order under section 3, appoint an Inquiry Officer or Inquiry Committee to scrutinize the conduct of a person in Government service or a person in corporation service who is alleged to have committed any of the acts or omissions specified in section 3. The Inquiry Officer or, as the case may be, the Inquiry Committee, shall-

(a) communicate to the accused the charges and statement of allegations specified in the order of inquiry passed by the competent authority;

(b) require the accused within seven days from the day the charge is communicated to him to put in a written defence;

(c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him; and

(d) hear the case from day to day and no adjournment shall be given except for special reasons to be recorded in writing and intimated to the competent authority.

(2) Where the Inquiry Officer or, as the case may be, the Inquiry Committee, is satisfied that the accused is hampering, or attempting to hamper, the progress of the Inquiry, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as he or it deems proper in the interest of justice.

(3) The Inquiry Officer or, as the case may be, the inquiry Committee, shall submit his or its findings and recommendations to the competent authority within twenty-five days of the initiation of inquiry.

(4) The Competent authority may dispense with the inquiry under sub-section (1) if it is in possession of sufficient documentary evidence against the accused, or for reasons to be recorded in writing, it is satisfied that there is no need of holding an inquiry.

(5) Where a person who has entered into plea bargaining under any law for the time being in force, and has returned the assets or gains acquired through corruption or corrupt practices voluntarily, the inquiry shall not be ordered:

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[102] Section 5 Substituted. by N.-W.F.P. Ord. No. V of 2001.

Provided that show cause notice shall be issued on the basis of such plea bargaining to such person informing of the action proposed to be taken against him and the grounds of such action requiring him to submit reply within fifteen days of the receipt of the notice. On receipt of the reply, the competent authority may pass such orders as it may deem fit.

6. Powers of the Inquiry Officer or Inquiry Committee.---The Inquiry Officer or, as the case may be, the Inquiry Committee shall have powers-

(a) to summon and enforce attendance of any person and examine him on oath;
(b) to require the discovery and production of any document;
(c) to receive evidence on affidavits; and
(d) to record evidence.

7. Procedure to be followed by the Inquiry Officer or Inquiry Committee.---The Inquiry Officer or, as the case may be, the Inquiry Committee shall, subject to any rules made under this Ordinance, have power to regulate its own procedure including the fixing of place and time of its sitting and deciding whether to sit in public or in private, and, in the case of a committee constituted for a person in corporate service, to act notwithstanding the temporary absence of any of its members.

8. Order to be passed upon a finding.---Every finding recorded by an Inquiry officer or, as the case may be the Inquiry Committee under section 5 shall, alongwith the recommendation provided for in that section, be submitted to the competent authority and the competent authority may pass such orders thereon as it may deem proper in accordance with the provisions of this Ordinance.

[103]**9. Representation.**---(1) A person on whom a penalty is imposed under section 3, may, within fifteen days from the date of communication of the order, prefer a representation to-

(a) the Chief Minister or an Officer or authority designated by him, if the order has been passed by an officer or authority authorized by the Chief Minister;

(b) the Governor or an officer or authority designated by him in any other case; provided that where the order has been made by the Governor, such person may, within the aforesaid period, submit a [104][review petition] to the Governor; and

(c) the Governor, where an order as competent authority has been passed by the Chief Minister.

(2) The Governor, the Chief Minister or an officer or authority, as may be designated for the purpose by the Governor or the Chief Minister, as the case may be, may, on consideration of the representation or, as the case may be, the [105][review petition] and any other relevant material, confirm, set aside, vary or modify the order in respect of which such representation or

[106][review petition] is made.

[103] Section 9 substituted by N.-W.F.P. Act No. II of 2004,
[104]The word "representation" substituted by the word [review petition] vide NWFP Removal from Service (Special Powers) (Amendment)Act 2005 (NWFP Act No III of 2005) dt 29-1-2005
[105] The word "representation" substituted by the word [review petition] vide NWFP Act No III of 2005
[106] The word "presentation" substituted by the word [review petition] vide NWFP Act No III of 2005

10. Appeals.--- Notwithstanding anything contained in any other law for the time being in force, any person aggrieved by any final order under section 9 may, within thirty days of the order, prefer an appeal to the Service Tribunals established under the North-West Frontier Province Service Tribunals Act, 1974 (N.-W.F.P. Act No. I of 1974):

[107]Provided that where a representation [108][ ] has been preferred under section 9, but no decision has been received by, or communicated to, the applicant or, as the case may be, the petitioner, within a period of sixty days of its submission to the prescribed authority, he may prefer an appeal to the Service Tribunal, established under section 3 of the North-West Frontier Province Service Tribunals Act, 1974 (N.-W.F.P. Act No. I of 1974), within thirty days of the expiry of the aforesaid period.

11. Ordinance to override other laws.---The provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the North-West Frontier Province Civil Servant Act, 1973 (N.-W.F.P. Act No. XVIII of 1973), and the rules made thereunder, and any other laws for the time being in force.

12. Proceeding under this Ordinance.---All proceedings initiated on the commencement of this Ordinance in respect of matters and persons in service provided for in this Ordinance shall be governed by the provisions of this Ordinance and rules made thereunder:

[109]Provided that the Provincial Government may, by notification in the official gazette, exempt any class or classes of employees of a corporation, a corporate body, authority, statutory body or other organization or institution set up, established, owned, managed or controlled by it, or a body or organization in which it has a controlling share or interest, from the provisions of this Ordinance and such class or classes of employees shall, notwithstanding anything contained in this Ordinance, be proceeded against and dealt with under the laws and rules applicable to such employees before the commencement of this Ordinance.

13. Pending proceedings to continue.---For the removal of doubts, it is hereby provided that all proceedings pending immediately before the commencement of this Ordinance against any person, whether in Government service or service of a corporation, under the North-West Frontier Province Civil Servants Act, 1973 (N.-W.F.P. Act No. XVIII of 1973), and rules made thereunder, or any other law or rules, shall continue under the said laws and rules in the manner provided thereunder.

14. Pensionary benefits, etc.---Notwithstanding anything contained in this Ordinance, the payment of pension or other benefits to a person retired or reduced to lower post or pay scale under this Ordinance shall, if admissible, be regulated in accordance with the law for the time being in force relating thereto.

[110]**14 A. Indemnity.---** No suit, prosecution or other legal proceedings shall lie against the competent authority or an officer or authority authorized by it for anything which is in good

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[107] Proviso added by NWFP ordinance No XXV of 2002
[108] The word "or review petition" omitted vide NWFP ordinance No XLV of 2002
[109]Proviso to section 12 added by ordinance No. XXXIII of 2001
[110] Section 14A & 14B added by NWFP ordinance No VIII of 2002

faith done or intended to be done under this Ordinance or the rules, instructions or directions made or issued thereunder.

14 B. Jurisdiction barred.--- Save as otherwise provided, no order made or proceedings taken under this Ordinance, or the rules made thereunder by the competent authority or an officer or authority authorized by it shall be called in question in any court and no injunction shall be granted by any court in respect of any decision made or proceedings taken in pursuance of any power conferred by, or under, this Ordinance, or the rules made thereunder.

15. Power to make rules.---Government may, be notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

16. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Governor may make such Order, not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for the purpose of removing the difficulty.

Joint enquiry under the NWFP Removal from Service (Special Powers) Ordinance, 2000.

I am directed to refer to your letter No.OP.5(1)LD/2001/KC/1055, dated 26th February, 2001, on the above subject and to inform that the Efficiency and Discipline Rules have not been repealed by the Removal from Service (Special Powers) Ordinance, 2000, therefore, any procedure prescribed in the Rules, which has not been expressly changed by the said Ordinance or, which was not inconsistent therewith, can be followed.

2. Therefore, for commencing joint inquiry against several officers, Rule 2(2) of the NWFP E&D Rules, 1973 can be applied and the authority designated for the senior most officer in rank shall be the authority for all such accused civil servants.

3. This issues with the approval of the Secretary.

(Authority; No.340/2001-Law, dated 17th March, 2001)

NOTIFICATION
Dated Peshawar the 16th February, 2005

No.SOR-VI/E&AD/2-6/2004:- In pursuance of the provisions contained in the clause (a) of Section 2 of the North-West Frontier Province Removal from Service(Special Powers) Ordinance 2000 (NWFP Ordinance No.V 2000), the Governor of the North-West Frontier Province is pleased to authorize the officers shown in column-3 of the Table below to exercise the powers of competent authority under the said Ordinance in respect of class of persons employed in the Universities incorporated by law in the Book Board, the N-W.F.P Board of Technical Education and the Boards of Intermediate & Secondary Education, shown against each in column 2 of the said table:-

TABLE

S.No.	Class of persons	Officer authorized to exercise the powers of competent authority.
1	Holders of posts in BPS-20 & above & equivalent	Appointing Authority
2	Holders of posts in BPS-19 & equivalent	
3	Holders of posts in BPS-16 to 18 and equivalent	
4	Holders of posts in BPS-1 to 15 and equivalent	

Chief Secretary to
Government of N-W.F.P.

NOTIFICATION
Dated Peshawar the 16th February, 2005

No.SOR-VI/E&AD/2-6/2004 In pursuance of the provisions contained in the clause (b) of sub-section (1) of Section 9 of the North-West Frontier Province Removal from Service (Special Powers) Ordinance 2000 (NWFP Ordinance No.V 2000), the Governor North-West Frontier Province is pleased to designate the officer/authority next above the respective competent authority for the purposes of preference of appeals against the orders passed by the competent authority under section 3 of the said Ordinance; provided that where the Governor himself is the Competent Authority the person aggrieved may submit a review petition to the Governor.

Chief Secretary to
Government of N-W.F.P.

NOTIFICATION
Dated Peshawar the 10th August, 2005

No.SOR-VI/E&AD/2-6/2004 In pursuance of the provisions contained in the clause (a) of Section 2 of the North-West Frontier Province Removal from Service (Special Powers) Ordinance 2000 (NWFP ORD No.V 2000), the Chief Minister of the North-West Frontier Province is pleased to authorize the appointing authority of the holder of the respective post other than the posts in respect of which the Chief Minister himself is the appointing authority, to exercise the powers of competent authority under the said Ordinance.

2. This department Notification No.SOR-II(S&GAD)5(29)/2000 Vol:III dated 28th September 2000, is hereby superceded.

Chief Secretary to
Government of N-W.F.P.

NOTIFICATION

Dated Peshawar the 11th August, 2005

No.SOR-VI/E&AD/2-6/2004/VOL:III:- In pursuance of the provisions contained in the clause (a) sub section (1) of Section 9 of the North-West Frontier Province Removal from Service (Special Powers) Ordinance 2000 (NWFP Ordinance No.V 2000), the Chief Minister of the North-West Frontier Province is pleased to designate the officer/authority next above the respective competent authority notified vide this Department Notification No.SOR-VI(A&D)/2-6/2004 dated 10th August 2005 to be authority for the purpose of making representation against the orders passed by the competent authority under section 3 of the said Ordinance.

2. This department Notification No.SOR-II(S&GAD)5(29)/2000 Vol:III dated 1st November 2000, is hereby superceded.

Chief Secretary to
Government of N-W.F.P.

Efficiency & Discipline

Statutory Provision

Section 16 of Civil Servants Act, 1973:- Disciplinary Action. A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

NWFP Government Servants (Efficiency and Discipline) Rules,1973.

1. **Short title, commencement and application:-** (1) These rules may be called the [111][North-West Frontier Province Government Servants (Efficiency and Discipline) Rules,1973.]

(2) They shall come into force at once and shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

2. **Definition:-** (1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say**:-**

(a) "accused" means a Government servant against whom action is taken under these rules.

(b) "authority" means the Governor or an officer or authority designated by him to exercise the powers of the authority under these rules;

(c) "authorised officer" means an officer authorised by the authority to perform functions of an authorised officer under these rules;

(d) "Government" means the Government of North-West Frontier Province;

(e) "misconduct" means conduct prejudicial to good order or service discipline or contrary to the [112](N.W.F.P Government Servants (Conduct) Rules,1987) or unbecoming of an officer and a gentleman and includes any act on the part of Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on Government or any Government Officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a Government servant;

(f) "penalty" means a penalty which may be imposed under these rules; and

(g) "Province" means the North-West Frontier Province.

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[111] Published in the NWFP Govt. Gazette Part-I, dated 21.12.1973 at Pages 140-43

[112] Substituted by Notification No.SORII(S&GAD)5-29/86,dated 26.11.1987.

[113]"(2) In case two or more Government Servants are to be proceeded against jointly under these rules, the authority or, as the case may be, the authorised officer, designated or authorised, for the Government Servant senior most in rank shall be the authority or, as the case may be, the authorised officer in respect of all such accused.

[114] (3) The inquiry officer or Members of Enquiry Committee, as the case may be, shall be the officer (s) senior in rank to the accused officer.

3. **Grounds of Penalty:-**Where a Government servant, in the opinion of the authority;

(a) is inefficient or has ceased to be efficient; or

(b) is guilty of misconduct; or

(c) is corrupt, or may reasonably be considered corrupt because**:-**

(i) he is, or any of his dependents or any other person through him or on his behalf is , in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or

(ii) he has assumed a style of living beyond his ostensible means; or

(iii) he has a persistent reputation of being corrupt ; or

(e) is engaged, or is reasonably suspected of being engaged in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosures of official secrets to any un-authorized person, and his (retention) in service is, therefore, prejudicial to national security, the authority may impose on him one or more penalties.

4. **Penalties:-** (1) The following are the minor and major penalties, namely**:-**

(a) Minor penalties**:-**

(i) Censure;

(ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post;

[115] (iii) recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order.

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113 Sub-rule(2) of rule 2 inserted vide S&GAD Notification No.SOR.II(S&GAD) 3(4)/78 (Vol-II), dated 20.5.1980.

114 Sub-rule (3) of rule 2 rule substituted by Notification No. SOR II (S&GAD)2(29)/95 Vol-II, dated 14.09.1999.

115 Sub-Class (iii) of clause (a) of sub-rule (1) of rule 4 deleted and sub clause (iv) renumbered as (iii) by Notification No.SORII(S&GAD)5(29)/95 Vol-II, dated 14.9.99

(b) Major penalties:-

(i) Reduction to a lower post, grade or time scale, or to a lower stage in a time scale;
(ii) compulsory retirement;
(iii) removal from service; and
(iv) dismissal from service.

(2) Removal from service does not, but dismissal from service does, disqualify for future employment.

(3) In this rule, removal or dismissal from service does not include the discharge of person:-

(a) appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or

(c) appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or

(d) engaged under a contract, in accordance with the terms of the contract.

5. **Inquiry procedure:-** The following procedure shall be observed when a Government servant is proceeded against under these rules:-

(1) In case where a Government servant is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of the authority, suspend him provided that any continuation of such leave or suspension shall require approval of the authority after every three months.

(2) The authorized officer shall decide whether in the light of facts of the case or interests of justice an inquiry should be conducted through an inquiry officer or inquiry committee. If he so decides, the procedure indicated in rule 6 shall apply.

(3) If the authorized officer decides that it is not necessary to have an inquiry conducted through an inquiry officer or inquiry committee, he shall:-

(a) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and

(b) give him a reasonable opportunity of showing cause against that action;

Provided that no such opportunity shall be given where the authority is satisfied that in the interest of the security of Pakistan or any part thereof it is not expedient to give such opportunity.

[116]Provided further that if the authorized officer is satisfied in view of the preliminary inquiry report of Provincial Inspection Team, Governor Inspection Team or any other Inquiry Committee or Inquiry Officer, that responsibility has been fixed on the specified Government servant (s) involved in the case and quantum of loss incurred by the Govt: is also indicated therein, the authorized Officer may dispense with formal inquiry under Efficiency and Discipline Rules, 1973 and serve a show cause notice upon the accused officer (s)/official (s), stating therein the grounds of action to be taken and giving to the accused a reasonable opportunity of written defence and personal hearing.

[117](4) On receipt of the report of the inquiry officer or inquiry committee, or where no inquiry officer or committee is appointed, on receipt of written defence or explanation of the accused to the show cause notice, the authorised officer shall determine whether the charge has been proved, and if so, shall also tentatively decide the imposition of major or minor penalty in relation to the accused in the light of the inquiry report or the defence/explanation of the accused, as the case may be, and serve him with a final show cause notice, communicating him the penalty to be imposed, alongwith a copy of the inquiry report, if any, giving him a reasonable opportunity, which shall not be less than seven days or more than fourteen days, to defend himself against the proposed action.

(5) If on receipt of the final show cause notice, and after hearing the accused if he so desired, it is proposed to impose a minor penalty, the authorised officer shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charges and statement of allegation(s) served on the accused, the explanation of the accused to the show cause notice, the findings of the inquiry officer or inquiry committee, it appointed, and his own recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

(6) While imposing a penalty under these rules, the authorised officer, or the authority, as the case may be shall ensure that the penalty corresponds to the degree of involvement of the accused officer/official with particular reference to the nature of guilt, i.e. corruption, negligence, inefficiency or misconduct and shall make a judicious decision, according to the facts, of the case and extent of the officer's involvement in it.

Provided that if the authorised officer or the authority is not in agreement with the findings of the Enquiry Officer/Committee, he may order a fresh enquiry through another Enquiry Officer/Committee as deemed appropriate.

6. **Procedure to be observed by the Inquiry Officer and Inquiry Committee:-**(1) Where an Inquiry Officer or Inquiry committee is appointed, the authorised officer shall**:-**

(a) frame a charge and communicate it to the accused together with statement of the allegations explaining the charge and if any other relevant circumstances which are proposed to be taken into consideration;

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[116] Proviso inserted by Notification No. SOR-II (S&GAD)5(29)/95 Vol-II, dated 14.09.1999.

[117] Sub-rule (4)(5)&(6) of Rule 5 substituted by Noti :No.SOR-II(S&GAD)5(29)/95 Vol-II dated 14.9.99

(b) require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in a written defence and to state at the same time whether he desires to be heard in person.

(2) The Inquiry Officer or the committee, as the case may be, shall enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.

(3) The Inquiry Officer or the Committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons therefor shall be reported forthwith to the authorised officer. Normally no adjournment shall be for more than a week.

[118]Provided that the inquiry Committee or officer, as the case may be, shall submit its/his report within the shortest possible time which shall not be more than one month, after receipt of reply to the charge sheet/statement of allegation.

(4) Where the Inquiry Officer or the Committee, as the case may be, is satisfied that the accused is hampering, or attempting to hamper, the progress of the enquiry, he or it shall administer a warning, and if thereafter he or it is satisfied that the accused is acting in disregard of the warning he or it shall record a finding to that effect and proceed to complete the enquiry in such manner as he or it thinks best suited to do substantial justice.

(5) The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the authorised officer.

7. **Powers of Inquiry Officer and Inquiry Committee:-** (1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908(Act V of 1908), in respect of the following matters namely**:-**

(a) summoning and enforcing the attendance of any person and examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavit;
(d) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Pakistan Penal Code(Act XLV of 1850).

[118] Proviso to Sub-rule (3) of rule 6 Substituted by Notification No. SOR-II(S&GAD)5(29)/95 Vol-II, dated 14.09.99.

[119]**7A. Revision:-**The authority may, in the case of any order passed by the authorised officer, call for and examine the record of any case and may, after making such further inquiry or investigation, if necessary, either personally or through an officer, pass such order as he may deem appropriate;

Provided that in cases where the authorised officer has exonerated an accused and the authority decides to impose a penalty on him or where the penalty imposed by the authorised officer is decided to be increased, the authority shall not impose any penalty or increase the penalty, unless an opportunity is given to the person concerned to show cause as to why such a penalty should not be imposed or, as the case may be, be increased.

8. Rule 5 not to apply in certain cases**:-**Nothing in rule 5 shall apply to a case**:-**

(a) where the accused is dismissed or removed from service or reduced in rank, on the grounds of conduct which has led to a sentence of fine or of imprisonment; or

(b) where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

[120]8.A A Procedure in case of willful absence**:-** Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government Servant, a notice shall be issued by the authorised officer through "registered acknowledgement" due cover on his home address directing him to resume duty forthwith. If the same is received back as undelivered or no response is received from the absentee within the stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision will be taken against him. On expiry of the stipulated period given in the notice, the authorised officer shall recommend his case to the authority for imposition of major penalty of removal from service.

9. Procedure of inquiry against officers lent to other Provincial Government or the Federation**:-**(1) Where the services of Government servants to whom these rules apply are lent to the Federation or to any other Provincial Government or to a local or other authority , in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules;

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as to lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.

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[119] Rule 7A inserted vide S&GAD Notification No.SOR.II(S&GAD)3-4/78, dated 4.5.1983.

[120] Rule 8A inserted by Notification No. SOR-II(S&GAD)5(29)/95 Vol.II, dated 14.09.99.

Provided further that the borrowing authority shall obtain prior approval of the [Chief Minister][121] before taking any action under these rules against a member of such Civil service of the Province or the holder of such civil post as Government may by notification (specify)[122].

(2) If, in the light of the findings in the proceedings taken against the Government servant in terms of rule 8(A), the borrowing authority is of the opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action prescribed in these rules.

[123](3) Notwithstanding anything contained in these rules, Government may, by order in writing, authorize the borrowing authority or any subordinate officer to such authority to exercise all or any of the powers of "authorized officer", "authority" and "appellate authority" in respect of civil servants whose services have been lent to the borrowing authority.

[124]10. **Appeal:-** A person on whom a penalty is imposed shall have such right of appeal as prescribed in the North-West Frontier Province Civil Servants(Appeal) Rules,1980.

[125]10A. **Appearance of Counsel:-**No party to any proceedings under these rules before the authority, the authorized officer, an Inquiry Officer or an Inquiry committee shall be represented by an Advocate.

[126]10B.**Exception:-**Notwithstanding any thing to the contrary contained in these rules, in cases where Government servants collectively strike work, willfully absent themselves from duty or abandon their official work, the Government or the authority may serve upon them, through the newspapers or any other mean, such notice as deemed appropriate to resume duty and in event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

11. **Repeal:-**The West Pakistan Government Servants(Efficiency and Discipline) Rules,1960, in their application to the Government servants to whom these rules apply are repealed, but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

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[121] The word "Governor" substituted by the words "Chief Minister" vide Notification No.SORII (S&GAD)5(29)/86, dated 22.9.1988.

[122] See Notification No.SORII(S&GAD)3(4)/78, dated 9.8.1982.

[123] Sub rule 3 of rule 9 inserted by Notification No.SORI(S&GAD)1-5/80, dated 21.9.1983.

[124] Rule 10 substituted by S&GAD Notification No.SORII(S&GAD)3(4)/78, dated 23.4.1986.

[125] Rule 10A added by S&GAD Notification No.SOSIII(S&GAD)1-80/73, dated 19.4.1975.

[126] Rule 10B added by Notification No.SORII(S&GAD)3(4)/78, dated 29,5.1998.

Peshawar dated the 16th January, 1992.

No.SORII(S&GAD)5(29)/86:- In exercise of the powers conferred by clauses (b) and (c) of rule 2 of the North-west Frontier Province(Efficiency and Discipline)Rules,1973, and in supersession of this department's Notification No.SOSIII(S&GAD)1-80/73, dated the 28th January,1975, the Governor of the North West Frontier Province is pleased to direct that the officers specified in column 3 and 4 of the table below shall respectively be the "Authority" and "Authorised Officer" for the purpose of the said rules in respect of civil servants specified against each in column 2 of the said table:-

TABLE

S.No	Basic Pay Scale of Govt Servant	Authority	Authorised Officer
1	2	3	4
1.	Officers of former Provincial Civil Secretariat Service and ex-Provincial Civil Service (Executive Branch)in basic Pay Scale 17.	Chief Minister	Chief Secretary
2.	Officers of former Provincial Civil Service(Judicial Branch)in Basic Pay Scale 17 and above.	Chief Justice	As authorised by the Authority
3.	Deputy Superintendent of Police in basic Pay Scale 17.	Chief Secretary	Inspector General of Police.
4.	Officers in Basic Pay Scale 17 in the Education Department.	Chief Secretary	Director of Education concerned.
5.	Other Officers in Basic Pay Scale 17 (other than Member of All Pakistan Unified Grades)	Chief Secretary	Administrative Secretary
6.	Officers in Basic Pay Scale 18 in the Education Department.	Chief Minister	Administrative Secretary.
7.	Other officers in Basic :Pay Scale 18 and above (other than members of All Pakistan Unified Grade).	Chief Minister	Chief Secretary
8.	Sectt: Officers in BPS-16	Chief Secretary	Secretary S&GAD
9.	Government servants in B-16 on the Establishment of Peshawar High Court, Peshawar.	Chief Justice	As authorized by the authority.
10.	Government servants in BPS-16 on the Estb: of Board of Revenue & the offices subordinate to it.	Senior Member Board of Rev:	Secretary, BOR
1	2	3	4
11.	Government servants in Basic Pay Scale 16 serving in the office of Divisional Commissioners and Offices subordinate to them.	Commissioner of the Division concerned.	As authorized by the authority
12.	Government servants in Basic Pay Scale 16 serving in the Directorate of Local Fund Audit.	Secretary Finance	Director, Local Fund Audit.

13.	Government servants in Basic Pay Scale 5 to 16 serving in the Public Service Commission.	Chairman of the Commission.	Secretary of the Commission.
14.	Other Government servants in Basic Pay Scale 16.	Head of Attached Department	As authorized by the authority.
15.	Government servants in Basic Pay Scale 5 to 15 serving in the Secretariat.	[127]Administrative Secretary concerned	Dy Secretary (Admn:) of the Deptt Concerned Department
16.	Government servants in Basic Pay Scale 1 to 4 serving in the Secretariat.	Dy Secy(Admn) of the Department concerned.	Section Officer(Admn) of the Department concerned
17.	Government Servants in Basic the Pay Scale 1 to 14 serving in Public Service Commission.	Secretary of the commission	As authorised by the authority.
18.	Other Government servants in Basic Pay scale 1 to 15.	Appointing authority.	As authorised by the authority.
	"Government servants in Basic Pay Scales 1 to 4 serving in the Chief Minister's Secretariat.	Deputy Secretary-II of C.M's Sectt:	Section Officer(Coord) Chief Minister's Sectt:

[129]"Where the Divisional Khidmat Committees, as specified by the Government from time to time, on the basis of their findings, deem necessary to proceed against a civil servant from BPS-1 to BPS-16, posted/working in the Division, the Commissioner of the respective Division shall exercise the powers of authority under the NWFP Government Servants (Efficiency & Discipline) Rules,1973. This provision shall not be applicable to the civil servant serving in the Provincial Civil Secretariat".

NWFP Government Servants (Efficiency and Discipline), Rules, 1973.

Attention is invited to Rule 5(2) of the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973 under which the powers to appoint an Inquiry Committee have been given. It has been observed that this provision is not being utilized presumably as sufficient number of officers are not normally available to hold inquiries.

2. However, it has been desired by the Governor that since the finding of the Inquiry Committee consisting of two or more officers would be more realistic than that of one Inquiry Officer, the use of Inquiry Committee may be made whenever feasible. I am, therefore, to request that these instructions may be brought to the notice of all authorities.

(Authority: Circular letter No.SORI(S&GAD)1-80/73(KW), dated 23.2.1980.)

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[127] Substituted by Notification No.SOR.II(S&GAD)5(29)/86, dated 18.7.1992.

[128] Sl. No.19 added by S&GAD Notification No.SOR.II(S&GAD)5(29)/86, dated 3.1.1993.

[129] Added by Notification No.SOR.II(S&GAD)5(29)/95, dated 21.6.1997.

Procedure under the NWFP Government Servants (Efficiency and Discipline) Rules,1973.

In the past, while proceeding against a Government servant under the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules,1973, it was not required to give an opportunity to the accused officer /official at the final stage to show cause against the penalty proposed to be imposed on him on the basis of the inquiry report, in cases where a formal inquiry was ordered to be held by the Authorized Officer under rule 5 of the said rules. Instead, the opportunity given to him through the charge sheet served on him, thereby allowing him to make his written explanation/defence against the charges and availing the chance of personal hearing, and further allowing him full liberty to defend his case before the Inquiry Officer conducting the inquiry, was considered as sufficient opportunity for all practical purposes of imposing a penalty on the basis of the inquiry report.

2. The Supreme Court, in Civil Appeal No.64 of 1979 (Syed Mir Mohammad versus NWFP Government), decided on 16.3.1981 (reported as PLD 1981 SC 176), has, however, held that on a proper construction of rules 5 and 6 read together of the aforesaid rules, it is statutory requirement that if a formal inquiry is held, then the Authorised Officer should, after he has tentatively decided upon the action proposed to be taken against an accused officer/official, give him an opportunity to offer his explanation against the proposed action in the light of the findings of the Inquiry Officer/Inquiry Committee.

3. In view of the above judgement of the Supreme Court, the position that emerges now is that it has become a statutory requirement to give an opportunity to an accused officer/official to offer his explanation against the proposed action in the light of the findings of the Inquiry Officer or, as the case may be, the Inquiry committee, in cases where the Authorised Officer decides to hold a formal enquiry in any case.

4. Therefore, the procedure that has now to be followed for proceeding against Government servant under the North-West Frontier Province, Government Servants (Efficiency and Discipline) Rules,1973 (hereinafter referred to in the said rules), is reproduced below for information and future guidance:-

> Before initiating proceedings under the said rules, the authorised officer shall decide whether in the light of the facts of the case or interest of justice an inquiry through an Inquiry Officer or Inquiry committee should or should not be conducted. If the authorised officer decided that it is not necessary to have an inquiry conducted through an Inquiry Officer or Inquiry committee, he shall follow the procedure prescribed in sub-rule (3) of rule 5 of the said rules, before imposing any penalty in the manner prescribed in sub-rule(4) ibid.
>
> However, if the authorised officer decides that an inquiry should be conducted through an Inquiry Officer or an Inquiry committee, then the procedure as laid down in rule 6 of the said rules shall be followed. After the receipt of the report of the Inquiry Officer or the Inquiry Committee, as the case may be, the authorised officer shall determine whether the charge has been proved or not. If the authorised officer is of the opinion that the charge has not been proved, he may drop the proceedings and absolve the accused officer/official of the charge. But if the authorised officer is of the view that on the basis of adverse findings of the Inquiry Officer or Inquiry committee the

charge has been proved, then he will tentatively decide whether it calls for a major or minor penalty. After so deciding, he will inform the accused officer/ official of the action proposed to be taken against him with a view to giving him an opportunity to offer his explanation against the proposed action in the light of the adverse findings of the Inquiry Officer or Inquiry Committee. While doing so, the authorised officer shall also forward a copy of the report of the Inquiry Officer or Inquiry Committee on the basis whereof the action is proposed to be taken.

On receipt of the explanation of the accused officer/official, the authorised officer shall again apply his mind to the case and determine vis-a-vis the explanation of the accused officer/official whether the charge against him still stands proved? If the charge does not stand proved, he will drop the proceedings and absolve the accused officer/official. However, if the explanation, if any, furnished by the accused officer/official does not absolve him of the charge, the authorised officer shall,-

a) in case it was proposed to impose a minor penalty or if it was proposed to impose a major penalty, but in the light of the explanation of the accused officer/official it calls for a minor penalty, pass orders himself;

(b) in case it was proposed to impose a major penalty, pass on the case to the authority alongwith the charge sheet and the statement of allegations, the reply of the accused officer/official, the report of the Inquiry Officer or the Inquiry committee, the explanation of the accused officer/official, if any, and his own recommendations, for such orders as the authority may deem fit.

(Authority: Circular letter No.SORII(S&GAD)3-4/78, dated 21.12.1981.)

Remand of Disciplinary cases in consequence of the Judgement of the Supreme Court of Pakistan in the case of Syed Mir Mohammad Shah Senior Civil Judge Versus Government of NWFP.

The Supreme Court of Pakistan in the case of Syed Mir Mohammad Shah Senior Civil Judge Versus Government of NWFP have held that in a disciplinary case where an inquiry officer has been appointed, it is incumbent on the "Authorised Officer" to supply a copy of the inquiry report to the accused civil servant advising him to give within a specified time his written explanation as to why a major or minor penalty (which should be specified in the show cause notice) should not be imposed on him. Any penalty imposed on the civil servant without meeting the above requirement will be bad in law.

2. Based on the above judgement of the Supreme Court of Pakistan, the NWFP Service Tribunal, in the recent past, have accepted appeals of the certain civil servants who had either been dismissed or removed or compulsorily retired from Government Service under the provisions of the NWFP Government Servants (Efficiency and Discipline) Rules,1973, directing the re-instatement in service of such civil servants and starting the disciplinary proceedings afresh from the stage where the default had occurred.

3. In order to ensure that all such cases are finalized without any avoidable delay, the Governor NWFP has been pleased to direct that such cases must be finalized within one month of the reinstatement in service of such civil servants. This period will only be

extendable with the prior approval of the Chief Secretary to Government of NWFP, by giving satisfactory explanation for the delay.

4. The Governor, NWFP has been further pleased to direct that persons dismissed, removed or compulsorily retired from Government Service under the Efficiency and Discipline Rules, and in consequence of the decision of the Supreme Court of Pakistan mentioned in paragraph 1 of this letter, on reinstatement in service, if they are gazetted officers, should be posted as officers on Special Duty in their original grades in their Departments and if they are non-gazetted officials, should be posted against equivalent temporary posts with the same designation in their Departments during the pendency of the disciplinary cases against them.

5. Incidentally, it may be advised for the benefit of the Authority/Authorised Officer that when an accused officer/official claims personal hearing in his reply to the charge sheet served upon him, he should be given an opportunity of personal hearing before final orders are passed.

(Authority:Circular letter No.SORII(S&GAD)3-4/78, dated 22.2.1982)

Borrowing Authority to seek prior approval of the Government.

In pursuance of the provisions contained in the second proviso to sub rule (1) of Rule 9 of the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973 the Governor of the North-West Frontier Province is pleased to specify that the civil servants holding civil posts in Grade-17 and above are the persons in respect of whom the borrowing authority shall obtain prior approval of the Governor before taking any action against them under the said rules.

(Authority:Notification No.SORII(S&GAD)3-4/78, dated 9.8.1982).

Disciplinary action against Convicts of Military Courts.

Instances have come to notice of this Secretariat where certain public servants not falling within the purview of the Pakistan Army Act, 1952 convicted by Military Courts and subsequently granted pardon were reinstated perhaps on the plea that pardon takes away the conviction.

2. The issue was however examined in consultation with the Law Division who have advised that a free pardon does not restore convicted person to public office forfeited in consequence of a conviction though it may remove disability for fresh grant of employment.

(Authority: CMLA's Secretariat No.57/29(1)/IB/A.JAG/CMLA/83, dated 16.3.1983)

Scrutiny Committee-Disciplinary Action.

Detailed deliberations take place during the Scrutiny Committee Meeting on the cases which are submitted by the Governor's Inspection Team and other agencies. Only those cases are approved in which substantial mis-appropriation/loss of Government funds has

taken place due to negligence/mis-conduct etc. of officials. These meetings are invariably attended by the administrative Secretaries who concur in to initiate departmental action against the defaulting officers. Concerned departments are, therefore, directed to take necessary disciplinary action against the involved persons.

2. It has been observed with concern that inquiry officers in certain cases have exonerated the accused and have not blamed any body, whereas a substantial loss had occurred to the Government and someone had to be responsible for such a loss. The inquiry officers while exonerating the defaulting officers do not point out as to who else is to be blamed for such losses.

3. It has, therefore, been decided that the inquiry officers will in future pin-point the actual persons involved/responsible, in case the accused under investigation/trial are being exonerated.

4. Department should also ensure that when an official is penalised to repay/make good a loss, disciplinary action should also be initiated against him.

5. It may also be worth mentioning that unnecessary delays take place, due to one reason or the other, in finalization of the cases after approval by Scrutiny Committee Meeting. The MLA desires that in future, all cases referred for disciplinary action will be finalized within six months and any further delay will only be condoned by him personally.

(Authority: MLA, Zone B letter No.202/8/CA-1, dated 10.4.1983)

Procedure under the NWFP Government Servants (Efficiency and Discipline), Rules 1973.

It has been observed that in some cases, the Enquiry Officers, appointed under Rule 5 of the Government (Efficiency and Discipline) Rules, 1973, not only follow the procedure, as out-lined in Rule 6 of the Rules ibid but exceed the limits of their duties, as assigned in sub-rule (4) of Rule 5 of the NWFP Government Servants (Efficiency & Discipline) Rules, 1973. The Enquiry Officer is supposed to find out only whether the charges against the accused officer/official have been proved or disproved and whether he is guilty or not.

2. It is prerogative/privilege of the Competent Authority (Authorised Officers) to decide whether to impose a minor penalty or major penalty. The Enquiry Officer is not required to make mention of exoneration or any other recommendation of punishment etc unless otherwise specifically asked for.

3. The instructions may be brought to the notice of all concerned for strict compliance please.

(Authority:Circular letter No. SORI(S&GAD)1-16/79(B), dated 26th November,1983)

Disciplinary action against Civil Servants convicted by Military Courts.

Some doubts have arisen as to whether a pardoned convict could be reinstated or not. These doubts were mainly created due to the note given under PAA Sec 143 (pardon takes away the conviction). Instructions have already been issued on the subject vide this Sectt: Letter No.57/29(1)IB/AJAG/CMLA/83 dated 16th March, 1983 and all zones were required not to issue orders for re-instatement of such convicted civil servants who had been granted pardon by the competent ML authorities.

2. The matter has been re-examined and it has been decided that the instructions already issued vide our above said letter are required to be strictly complied with. In case there is any Court/Tribunal order for reinstatement of Civil Servant on the strength of previous pardon cases the Government should prefer an appeal and if the appeal is already time-barred, a petition for leave to appeal alongwith a petition for condonation of delay may be moved in the appellate court at an early date.

3. It may be appreciated that the term "Service Tribunal" has already been included in the term 'court' as mentioned in clause (5) and (6) of Art 15 of the CMLA's Order No. 1 of 1981(CMLA's Office Order dated 31.7.1984 refers) .

(Authority: CMLA's Secretariat letter No.57/29(1)/AJAG/CMLA, dated 27th August,1984).

Delay in process of Disciplinary cases.

Enquiry proceedings against civil servants under Efficiency and Discipline Rules tend to be unduly protracted for various avoidable reasons, causing hardships to the affected officers on one hand and defeating the purpose of speedy disposal of cases, on the other.

I am directed to request that in all disciplinary cases, in addition to the strict observance of the provisions of Efficiency & Discipline Rules, and the instructions already issued, the following measures should be strictly observed**:-**

(1) The authorised officer should ensure that no avoidable delay is allowed to occur during any stage of a disciplinary case.

(2) The Enquiry Officer be carefully selected for his competence and capability to hold the enquiry.

(3) A time-limit should be prescribed for completion of the enquiry.

(4) The Enquiry Officer should be specifically directed to complete the enquiry within the prescribed period.

(5) Until the inquiry is completed, the Enquiry Officer, the accused as well as the witnesses concerned should not be permitted to proceed on leave, training course or on transfer in or outside Pakistan.

(6) A check-sheet, recording the day to day progress, should be maintained by the Enquiry Officer,

(7) The enquiry proceedings once started should be held without interruption, as far as possible, on day to day basis.

(8) On receipt of the enquiry report the case should be processed expeditiously.

(9) It should be impressed upon the Enquiry Officer that the quality of work produced by him will reflect on his efficiency, which will be recorded in his ACR.

(10) The initiating officer should record his assessment of the Enquiry Officer's performance in the ACR.

(Authority: Circular letter No.SORII (S&GAD)3(4)/78, dated 3rd October, 1984)

Stoppage of increment under Government Servants (Efficiency & Discipline) Rules, 1973.

Instances have come to the notice of the Government where the penalty of stoppage of increment under the NWFP Government Servants (Efficiency & Discipline) Rules, 1973, has been imposed on Government Servants, who have reached the maximum of the pay scale, thus making the penalty ineffective. I am accordingly directed to request that the competent authorities may, in future, kindly keep in view the stage of the pay scale at which a Government servant is drawing pay before imposing the penalty of stoppage of increment on him under the above rule.

(Authority:Circular letter No.SORII(S&GAD)5(29)/86, dated 27th December, 1986).

Departmental Proceedings vis-a-vis Judicial Proceedings.

The question as to whether or not a departmental inquiry and judicial proceedings can run parallel to each other against an accused officer/official has been examined in consultation with the Law Department.

2. It is hereby clarified that Court and Departmental proceedings may start from an identical charge(s) and can run parallel to each other. They can take place simultaneously against an accused on the same set of facts and yet may end differently without affecting their validity. Even departmental inquiry can be held subsequently on the same charges of which Government servants has been acquitted by a Court. The two proceedings are to be pursued independent of each other and it is not necessary to pend departmental proceedings till the finalization of judicial proceedings.

3. It may also be clarified that Court Proceedings also include criminal proceedings pending against a civil servant.

4. The above instructions may please be brought to the notice of all concerned.

(Authority:Circular letter No.SOR.II(S&GAD)5(29)/86(KC), dated 8.1.1990)

Disciplinary action against Government Servants who violate Wildlife Law.

It has been reported that certain Government servants violate the Wildlife Law, thus setting not only a bad precedent for the general public but are also guilty of misconduct.

2. Under sub-rule (1) (e) of Rule 2 of the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 'Misconduct' has been defined to mean inter alia conduct prejudicial to good order or service discipline or unbecoming of an officer and a gentleman.

3. I am, therefore, directed to request that in addition to institution of cases against those Government servants who violate Wildlife Law or any other law of the country, they may also simultaneously be proceeded against under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 by the department concerned.

4. The contents of this letter may be brought to the notice of all officers/officials working under your control for strict compliance.

(Authority: Circular letter No.SOR.III(S&GAD)/7-12/91, dated 27th April, 1991).

Unauthorised supply of copies of official correspondence.

It has come to notice that interested persons carry Photostat copies of official correspondence/notes taking place within Department or among various Departments and offices in violation of the Government Instructions. Sub Paras (a) & (b) of Para 67 of the Government of NWFP Manual of Secretariat Instructions, 1989 provides that**:-**

a) All papers received or dealt with in the Secretariat are of a confidential nature and their contents should not be disclosed to or discussed with any unauthorised person. This rule applies with greater force to documents specially classified as Confidential or Secret, and the strictest secrecy shall be observed with regard to their contents.

b) Breach of this rule is an offence punishable with imprisonment under Section 5(4) of the Official Secret Act, 1923 (Act XIX of 1923).

2. Under the above instructions neither copy of any official correspondence, letter or note can be given un-authorisedly to any person nor the movement of official correspondence/ files can be divulged to any one not officially concerned with it. It amounts to violation of Secretariat/Security Instructions.

3. I am accordingly to request you to please direct all concerned to strictly comply with the above instructions, failing which any official found violating these instructions, shall be proceeded against under the NWFP Government Servants (Efficiency & Disciplines) Rules, 1973 in addition to any proceedings under Section 5(4) of the Official Secret Act 1923, if warranted.

(Authority:SO(O&M.I)S&GAD/10-5/91, dated 29th October,1991.)

Adoption of proper procedure while holding Inquiry/ Disciplinary Proceedings under the NWFP Government Servants(Efficiency and Discipline) Rules,1973.

It has been observed that in dealing with disciplinary cases, care is not generally taken to observe the procedure laid down in the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 and instructions issued by the Provincial Government in this behalf from time to time. The Inquiry Officers generally do not follow the prescribed procedure and take the proceedings quite lightly. They recommend exoneration of the accused without pinpointing the actual persons involved/responsible even in cases where substantial losses had occurred to the Government.

2. Kindly ensure that provisions of the NWFP Government Servants (Efficiency and Discipline) Rules, 1973, are complied with fully in future by the officers responsible for discharging their duties under the said rules. The Inquiry Officers may please be directed to study the NWFP Government Servants (Efficiency and Discipline) Rules, 1973, and instructions issued in this behalf from time to time, before holding the inquiry. They should also be instructed to submit a comprehensive report as required under the rules with charge-wise conclusions failing which an adverse entry shall be made in their service record.

(Authority:Circular letter No.SORII(S&GAD)5(29)86(B), dated 28th March, 1992)

Absence without leave

It has come to notice that a large number of officers have gone abroad or are absent without leave since long. Consequently, when their promotion cases, come up before the Provincial Selection Board/Departmental Promotion Committee, it has to defer them. Absence without leave even for a single day is misconduct and makes civil servant liable to disciplinary action. It has been observed that departments fail to take any effective steps to proceed against the defaulters under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973, so much so that no action is initiated even under FR-18, when their absence with or without leave exceeds five years.

2. The Chief Minister NWFP has taken a very serious view of this state of affairs and has been pleased to direct that whenever such a case comes to notice, necessary action shall invariably be initiated against the Head of the Department concerned.

(Authority:Circular letter No.SORII(S&GAD)5(29)/86-Vol.B, dated 7th August,1993)

Speedy disposal of Inquiry cases, initiated under the NWFP Government Servants (Efficiency & Discipline) Rules,1973.

Attention to the provisions of Sub rules (2) to (5) of Rule 6 of the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 in which a detailed procedure for holding enquiries by the Inquiry Officers or Inquiry committee, as the case may be appointed under sub rule (2) of Rule 5 of the Rules ibid, has been laid down. A copy of Rule 6 is enclosed for ready reference. Under the said rules, the enquiry officer is required to hear the case on daily basis with no adjournment except in very special cases where adjournment for a maximum period of a week, and that too, under intimation to the Authorized Officer is admissible. Also,

the enquiry officer is authorized to issue a warning to the accused officer if the latter attempts to hamper the progress of the enquiry and finalize the report at his discretion.

2. It has, however, been noticed that some enquiry officers fail to adopt the laid down procedure and delay the submission of the enquiry reports unduly. In certain cases, even Authorized Officers show undue leniency to the enquiry officers. This tendency of the enquiry officers/Authorized Officers is not only against the rules quoted above but also causes undue hardship to the accused officers whose cases of promotion, moreover etc are held up due to pending enquiries. Besides, as also pointed out by the Provincial Public Accounts Committee, recovery of amounts involved in the irregularities committed by the defaulter officer, are not possible on account of their retirement which is mostly due to delay in the finalization of the enquiry reports.

3. It is therefore, requested that all the enquiry officers may be directed to process enquiries as per provisions in the rules and submit the reports by the target dates fixed by the Authorized Officer except in very special cases where the prior permission of the Authorized Officer for extension in the time limit is obtained for submission of the report.

(Authority:Circular letter No.SORII(S&GAD)5(69)/94, dated 5.8.1996)

Speedy disposal of disciplinary cases/abatement of enquiry on superannuation of a civil servant.

Reference FR-54 -A where under it has been laid down**:-**

"54-A. If a Government Servant, who has been suspended pending inquiry into his conduct attains the age of superannuation before the completion of inqruiy, the disciplinary proceedings against him shall abate and such Government Servant shall retire with full pensionary benefits and the period of suspension shall be treated as period spent on duty".

2. The issue has been examined in consultation with the Finance Department and it has been decided that in future all Civil Servants who are under enquiry be excluded from the enquiry proceedings under the E&D Rules after attaining the age of superannuation and they may be allowed full pensionary benefits as provided under the rules. However, it has further been decided that if some pecuniary loss caused to the Government is likely to be proved against a Government Servant who superannuates before decision of the case against him, an FIR should be lodged against him for judicial proceedings immediately after the date of superannuation and exclusion of his name from the departmental enquiry.

3. In view of the above legal position about the enquiry proceedings under the Government Servants E&D Rules, 1973 most of the enquiries on one pretext or other are inordinately delayed and consequently they get abated as such. This state of affairs is neither desirable nor in the public interest. It has therefore been decided that all enquiry officers shall strictly abide by the relevant rules and ensure completion of enquiries and submission of their reports within the stipulated time. In this connection attention of the enquiry officers is drawn to the provision of Rule 6 sub rule (3) and sub Rule (5) of the rules ibid where under it has specifically been laid down that**:-**

Sub-Rule(3)

The inquiry officer or the committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons, therefore, shall be reported forthwith to the authorised officer. Normally no adjournment shall be for more than a week.

Sub-Rule(5)

The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the authorized officer.

4. These instructions may kindly be brought to the notice of all concerned for compliance in letter and spirit.

(Authority:S&GAD's letter No.SORII(S&GAD)3(122)/96, dated 22.8.1998)

Speedy disposal of Disciplinary Cases.

I am directed to say that instructions for expeditious finalization of departmental inquiries against Government servants have not produced the desired results. It has been observed that inquiries against Government servants are dragging on for long periods. In some cases the slow progress of the inquiry proceedings provide an opportunity to the accused officials to win over the witnesses and consequently escape the clutches of law. In other, the protracted inquiries cause financial hardships, unnecessary mental anguish, frustration and demoralization of the accused officials in general and those whose promotions are due in particular. Inordinate delays in the dispensation of justice not only defeats its very purpose but also impairs public interest by causing financial loss to Government by way of payment of salaries and allowances to the officials concerned. One of the reasons for such delays is that no check is being maintained on the progress of such cases by the Departments concerned.

2. Government attaches great importance to this matter and wishes to impress upon all concerned the necessity of exercising close vigilance on the investigations and processing of disciplinary cases and ensuring disposal of such cases with speed and urgency at all stages and within the period prescribed. In order to avoid delays, I am to request that:-

(a) the Authorised Officers may be given a period for completion/submission of each inquiry which may not normally be more than three months subject to relaxation in special cases;

(b) the Administrative Departments may please furnish progress reports on Departmental enquiries pending with them for period more than six months to S&GAD in the proforma at Annexure-1. These reports should invariably be furnished to S&GAD in the first week of January, April, July and October each year. The first statement may be furnished within a month of receipt of this letter.

(c) the Enquiry Officers/Enquiry Committees should, on completion of inquiries furnish reports to their respective Authorised Officers in the format at Annexure-II.

(d) it should be impressed upon the Enquiry Officers that the quality of work produced by them will reflect on their efficiency which will be recorded in their ACRs.

(e) the initiating officers while recording their opinion in the ACRs on the work and conduct of an officer should keep in mind whether the officer reported upon was entrusted with an enquiry and if so whether he had finalised the inquiry within the prescribed time limit unless the circumstances beyond his control necessitated the delay.

ANNEXURE-I

PROGRESS REPORT OF DPEARTMENTAL ENQUIRIES CONDUCTED UNDER NWFP GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 1973 TO BE SUBMITTED BY ADMINISTRATIVE DEPARTMENT TO S&GAD

Name of Department____________________________ Quarter ending____________

S. No.	Names, Designation & Pay Scale No. of the accused Government Servant (a)	Date of Institution of the inquiry	Brief nature of allegations	Name & Designation of the Enquiry Officer/Enquiry Committee and date of appointment	Period fixed for completing the inquiry	Present position of the case	Reasons for delay
1	2	3	4	5	6	7	8

ANNEXURE-II

PROGRESS PROFORMA TO BE FILED BY EVERY ENQUIRY OFFICER/BOARD OF INQUIRY IN RESPECT OF EACH ENQUIRY HELD UNDER THE NWFP GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 1973 AND ATTACHED TO INQUIRY REPORT

S No	Date of appointment as Enquiry Officer/ Board of Enquiry	Date on which hearing initiated	Adjournments given for period exceeding one week	No. and date of permission of Authority under Rule 8(2) for adjournments mentioned in the previous column.	Date of completion of proceedings	Date of submission of report to the authority	Maximum period fixed by the authority under Rule 8(2) of sub rule (1)	Reasons for delay if any
1	2	3	4	5	6	7	8	9

(Authority:S&GAD's letter No.SORII(S&GAD)3-4/78,dated 17.10.85)

Disciplinary Action-need to observe strictly the Rules and Procedure relating to disciplinary cases.

I am directed to state that it has been observed that in dealing with disciplinary cases, care is not generally taken to observe the procedure laid down in the NWFP Government Servants (Efficiency and Discipline) Rules,1973. Such omissions vitiate the case and if the Government servant concerned goes in appeal to the Service Tribunal, the appeal is sometime accepted on this account. It is, therefore, necessary that extreme care is taken to ensure that the cases are dealt with according to the prescribed rules and procedure.

2. The Government has been issuing instructions from time to time drawing attention of all concerned to specific requirements of rules and procedure or to omissions generally noted in disciplinary action. It is requested that the instructions issued from time to time may strictly be followed by all the departments and offices under your administrative control.

3. For facility of reference the instructions issued form time to time have been consolidated in a fresh check-list which is attached to this letter as Annexure. It should always be consulted while processing disciplinary cases.

(Authority:-S&GAD's letter No.SORII(S&GAD)3(4)/78, dated 9.4.1985)

ANNEXURE

CHECK-LIST OF REQUIREMENTS TO BE NOTED WHILE TAKING ACTION UNDER NWFP GOVERNMENT SERVANTS(EFFICIENCY & DISCIPLINE) RULES,1973.

Authority: To ensure that**:-**

The Governor has been pleased to designate the officer or authority to exercise his powers as Authority under rule 2(b).

Authorised Officer. To ensure that**:-**

1. The officer exercising the powers of Authorised Officer has been authorised by the authority to act as such in terms of rule 2(c).

2. The Authorised Officer while exercising his discretionary powers of suspension under rule 5(1) has obtained prior approval of the Authority in writing before issuing orders suspending the accused officer. The summaries for authority seeking its approval for suspension or extension of suspension period are signed by the authorised officer and not by any other officer. Further, an officer can be suspended only if he is accused of subversion, corruption or misconduct [Rule 5(1)].

3. Formal approval of the Authority is available for continuation of the suspension period after every three months [Rule 5(1)].

4. Formal approval of the authority is available for extending the period of forced leave after every three months[Rule 5(1)]

5. No officer other than the Authorised Officer has decided that in the light of the facts of the case or in the interest of justice an inquiry should be conducted through an Inquiry Officer or Inquiry Committee,[Rule 5(2)].

6. Considering the nature of charges and other facts, the decision not to hold an inquiry has been taken judiciously and not arbitrarily. Before taking such a decision, the authorised officer has taken into consideration the nature of charges and other facts and has satisfied himself that the allegations against the accused could be decided without holding an enquiry [Rule 5(3)]. (Though it is not a requirement of the rule that the reasons for not holding an enquiry be recorded, yet the check-point is necessary to ensure that the decision is in the interest of justice as required by rule and that there is no violation of the law of natural justice).

7. The procedure prescribed in rule 6 is followed in case the Authorised Officer in exercise of his discretionary power under Rule 5(2) has decided to hold an inquiry through an Inquiry Officer or Inquiry Committee.

8. Formal order regarding appointment of Inquiry Officer or Inquiry Committee, as the case may be, has been issued by the Authorised Officer(Rule 6 read with rule 5(2).

9. A formal charge sheet together with a statement of allegations has been framed and communicated to the accused officer by the Authorised Officer under his signature. (The statement of allegations should also be authenticated by the authorised officer) (Rule 6(a)].

10. The charge-sheet requires the accused.

    (i) to put in written defence within a reasonable time which is not less than 7 days or more than 14 days from the day the charge has been communicated;

    (ii) to state whether he desires to be heard in person.[Rule 6(b)].

11. The procedure laid down in rule 5(3) is followed in case the Authorised Officer in exercising of his discretion has decided to dispense with holding an inquiry through an Inquiry officer or Inquiry Committee.

12. In the show cause notice issued under Rule 5(3) (b) the proposed action and the grounds of the action including particular or particulars of charges has been specified; the grounds for penalty in terms of rule 3 have been specifically mentioned; the penalty or penalties which would be called for if the charges are established have been specified and no general mention has been made by reference to all minor or major penalties. The description of penalties should conform to the description given in the rules. The show cause notice must be signed by the authorised officer.

13. On receipt of the report of the Inquiry Officer or Inquiry Committee or on receipt of explanation of the accused officer under Rule 5(4) the Authorised Officer has determined whether the charge or charges against the accused officer has been proved or not [Rule 5(4)].

14. After the authorised officer has considered the inquiry report and arrived at a provisional conclusion as to the penalty to be imposed, the accused shall be supplied with a copy of the inquiry report and asked to show cause within a specified time, which should not be less than 7 days and more than 14 days from the date of receipt of inquiry report, against the particular penalty to be imposed and any representation submitted by the accused in this behalf shall be taken into consideration before final orders are passed.

15. In case the Authorised Officer has proposed imposition of a major penalty on the accused officer he has referred the case to the Authority with his recommendation and with all the documents mentioned in the rule [Rule 5(4)].

16. When the accused has desired to be heard in person, the authorised officer has duly heard him in person before deciding to impose a minor penalty or make recommendations to the authority for a major penalty.

17. In case the authorised officer in respect of civil servants holding posts in basic pay scales 17 and above decides to forward a disciplinary case to the Governor, where he is the authority, he should invariably submit his proposal in the form of a Summary to Governor through Chief Secretary alongwith complete CR dossier. The summary should also contain the following information:-

i) date of birth of the accused
ii) date of his entry into service
iii) the length of qualifying service for pension as on the date on which summary is forwarded.

Inquiry Officer/ Committee.

To ensure that:-

(1) The procedure laid down in Rule 6(1) to 6(5) is strictly adhered to during the inquiry proceedings.

(2) The inquiry proceedings being of judicial nature in terms of rule 7, the Inquiry Officer has recorded the statement of witnesses on oath.[Rule 7(a)].

(3) The accused officer is allowed to cross-examine the witnesses produced against him during the proceedings [Rule 6(2)].

(4) The accused officer is afforded reasonable opportunity to produce his defence [Rule 6(1)(b)].

(5) The case is heard from day to day and no adjournment is given except for reasons to be recorded in writing which should be reported to the authorised officer. No adjournment should exceed a week [Rule 6(3)].

(6) The findings are recorded after due analysis and appreciation of evidence on record.

(Authority:-S&GAD's letter No.SORII(S&GAD)3(4)/78,dated 13.8.1985)

REQUIREMENT TO ISSUE A FRESH SHOW CAUSE NOTICE IF THE PENALTY IMPOSED UNDER GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES,1973, OR PROPOSED TO BE IMPOSED IS GREATER THAN THAT SPECIFIED IN THE SHOW CAUSE NOTICE OR IS PROPOSED TO BE ENHANCED BY THE APPELLATE AUTHORITY.

As a result of disciplinary action taken against a Government servant the appellate authority considered the penalty imposed by the authorised officer as inadequate and enhanced the penalty. Government servant filed an appeal against enhancement of penalty before the Service Tribunal [Appeal No.2(k) of 1980]. The Service Tribunal while accepting the appeal observed that the penalty was enhanced without giving the appellant an opportunity of being heard which was against natural justice and further observed that "we are of the firm opinion that even if the rules are silent on the subject, any time an appellant's punishment is enhanced, he will be given a show cause and a hearing. The requirement is natural justice shall always be read into the rules". The Division concerned referred the observations of the Service Tribunal to the Ministry of Law who confirmed that while it was open to the appellate authority to revise the sentence upward, it would be appropriate for the appellate authority to give a show cause notice to the appellant and hear him before passing the order. They advised that the order of the Tribunal should, therefore, be obeyed.

2. The observations of the Service Tribunal and the advice of the Justice Division mentioned in Para 1 is brought to the notice of all Ministries/Divisions and Departments for guidance and compliance.

3. The cases in which a penalty is enhanced may be as follows:-

(i) Where the authority decides to enhance the penalty proposed by the Authorised officer and which is greater than the maximum penalty shown in the show cause notice issued by the authorised officer in terms of Rule 5 (3) of the Government Servants (Efficiency and Discipline) Rules,1973, or in the Show Cause Notice issued by the authorised officer in terms of Rule 5 (4), after considering the inquiry report, as the case may be; or

(ii) Where the authority in exercise of its reversionary power under Rule 7-A of the Rules, decides to enhance a penalty imposed in a case already disposed of or which, in a pending case, is greater than the penalty shown in the show cause notice; or

(iii) Where the appellate authority, in exercise of its appellate jurisdiction, decides to enhance the penalty already imposed on the appellant.

The Ministries, Divisions and Departments are advised to ensure that in all such cases as are mentioned above, before the penalty is enhanced a show cause notice is invariably issued and the accused/appellant is given an opportunity of being heard in person.

(Authority: Copy of O.M No.4/42/83-D-2,dated 29th July,1985, from Government of Pakistan, Cabinet Secretariat (Establishment Division)

Speedy disposal of disciplinary cases.

I am directed to refer to the subject noted above and to invite your attention to this department's letter of even number dated 17.10.85 where under detailed instructions for speedy disposal of enquiries were issued. However, it has been observed that in dealing with disciplinary cases, care is not generally taken to observe the procedure laid down in the NWFP Government Servants (Efficiency and Discipline) Rules, 1973 and instructions issued by the provincial Government in this behalf from time to time. The inquiry officers usually do not follow the prescribed procedure and take the proceedings quite lightly, which benefits the accused officers/ officials and the very purpose of the proceedings is defeated.

I am, therefore, to request you to kindly ensure that the above instructions are complied with in letter and spirit, in future.

(Authority S&GAD letter No.SOR-II (S&GAD)5/29/95 Vol-II, dated 23.2.99)

Speedy Disposal of Disciplinary Cases.

I am directed to refer to this Departmental letter of even number dated 23.2.99 on the subject noted above and to reiterate that disciplinary proceedings against Government Servants under Efficiency and discipline Rules, are unduly protracted in the departments, in general, and by the Enquiry Officers, in particular for various reasons. Sometimes the delays seem to be intentional to allow the accused civil servants to retire from service on superannuation during the course of proceedings, where after proceedings under the Efficiency and Discipline Rules against them stand abated under FR-54 (A) from the date of retirement of the civil servant.

2. It has also been noticed that in cases where financial losses have been caused to the Government, the Enquiry Officers do not indicate the quantum of losses in their report enabling the concerned authority to order the recovery of the amount of loss as penalty in addition to other penalties. Moreover, no FIR is being lodged in the relevant courts of law for the recovery of losses from the retired civil servant by the concerned departments.

3. The Chief Minister, NWFP, has expressed dis-satisfaction, time and again, over delays in the Efficiency and Discipline cases as a result of which the accused brought to book are facilitated to get off the hook in the process of accountability. The Chief Minister, NWFP has directed once again to ensure handling of disciplinary proceedings in proper and effective manner so as to finalize cases in stipulated time and well before the retirement of those accused officers who are due for retirement.

4. I am directed to request that in all disciplinary cases, in addition to strict observance of the provisions of Efficiency and Discipline Rules and the instructions already issued on the subject, the following measures should also be adhered to strictly:-

(a) The Administrative Department should ensure to give priority to E&D cases as provided in paras-177-181 of the Manual of Secretariat Instructions otherwise the department concerned will be held responsible for the delays in finalization of these cases

(b) The enquiry officers should conduct the enquiry in accordance with Rule 6 of the E&D Rules and should submit report within the stipulated period. The enquiry officer should also in his findings indicate whether the charges have

been established or not. He should also indicate pecuniary losses caused to the Government;

(c) The Authorised Officer or Authority, as the case may be, while considering to impose any major or minor penalty on the accused, shall also consider to impose a minor penalty of recovery of peculiar losses caused to Government by negligence or by breach of order of the accused civil servant as provided in Rule 4 (1) (a) (iii) of the E&D Rules;

(d) In case the department or the enquiry officer find any difficulty to conduct an enquiry in time or to process the case in time, a reference to this effect may be made to the Authorised officer bringing the matter causing delay into his notice for timely remedial action.

(Authority S&GAD letter No.SOR-II(S&GAD)5(29)/95 Vol-II, dated 18.5.99)

Disciplinary proceeding under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.

I am directed to refer to the subject noted above and to say that the Competent Authority has directed that while submitting enquiry cases to the Authorised Officer/ Authority under E&D Rules, 1973 for decision a self-contained service record of the accused officers/officials indicating details of previous enquiries, if conducted against them, shall invariably be provided for perusal of the above authorities.

2. I am, therefore, directed to request you that the above instructions should be brought to the notice of all concerned for strict compliance in future.

(Authority S&GAD letter No.SOR-II(S&GAD)5(29)/99 Vol-III, dated 31.1.2000)

Indication of Basic Pay Scale while submitting cases under (Efficiency & Discipline) Rules, 1973.

I am directed to refer to the subject noted above and to state that the competent authority has observed that majority of the Administrative Departments of the Provincial Government, do not indicate the Basic pay Scales of the accused officers/officials, while submitting enquiry cases under E&D Rules, 1973 which becomes a cause of delay in such cases.

2. It may be ensured that in future at the time of submission of aforesaid cases, Basic Pay Scales shall invariably be mentioned to facilitate appropriate decision of the Authorised Officer/Authority. A copy of this department letter of even number dated 27.12.86, regarding mentioning of the stage of the pay at which a government servant was drawing pay before imposition of penalty of stoppage of increment on him is also enclosed for guidance/ compliance.

3. I am, therefore, directed to request you to kindly bring these instructions to the notice of all concerned working under your administrative control for strict compliance.

(Authority S&GAD letter No.SOR.II(S&GAD)5(29)/98/KC, dated 31.1.2000)

Speedy disposal of disciplinary cases.

I am directed to refer to this department letter of even number dated 18.5.99 on the subject noted above (copy enclosed for ready reference) and to state that despite repeated instructions for timely completion of enquiries against Government Servants under the (Efficiency & Discipline) Rules, 1973, the Enquiry Officers still adopt a lukewarm and lethargic attitude towards the assigned duty. This tendency provides an easy way-out for retirement on superannuation to the accused officer under the provision of FR 54-A.

2. It is pointed out that under sub-rule (3) and proviso inserted thereunder, of Rule-6 of the Rules ibid, (30) days time has been specified for the Enquiry Officer or the Enquiry Committee, as the case may be, to complete the assigned task. In case the Enquiry Officer or the Enquiry Committee failed to complete the enquiry within stipulated period, they will render themselves liable for disciplinary action to be taken against them for their inefficiency and delinquency within the meaning of Rule-3 of the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.

3. I am, therefore, directed to request you to kindly bring these instructions to the notice of all concerned working under your administrative control for strict compliance.

(Authority S&GAD Letter No.SOR.II(S&GAD)5(29)/99/Vol.III, dated 16.2.2000)

Personal Hearing.

I am directed to refer to the subject noted above and to state that Sub-Rule-1(b) of Rule-6 of the (Efficiency and Discipline) Rules, 1973 provides that while serving a Charge Sheet/Statement of allegations or a show Cause Notice on an accused Officer/Official, he is also requested to intimate whether he desires to be heard in person or otherwise. The competent authority has observed with concern that departmental representatives during the personal hearing of disciplinary cases are not fully conversant with the history of the case which results in serious gaps of information. It will be in the interest of Administrative Departments to nominate only those persons who have dealt with the case and are fully informed about it. In some cases, the departmental representatives lack basic information regarding the sequence of events. The knowledge of E&D Rules would be an added advantage to the departmental representatives.

I am, therefore, directed to request you to kindly bring these instructions to the notice of all concerned for strict compliance.

(Authority S&GAD Letter No.SOR.II(S&GAD)5(29)/99, dated 3.3.2000)

Disciplinary proceedings against accused Government Servants.

I am directed to refer to this subject noted above and to enclose herewith a copy of D.O letter No.11/5/2000/D.I, dated 2.3.2000 received from Additional Secretary (Incharge), Cabinet Secretariat, Establishment Division, Government of Pakistan, Islamabad for guidance and strict compliance.

D.O letter

During high level meeting chaired by the Chief Executive it was noted that the designated "Authorized Officers" of the borrowing authorities in the Provincial Governments have adequate powers under the Government Servants (E&D) Rules, 1973 to departmentally proceed against Government Servants involved in the alleged charges of misconduct, inefficiency, corruption etc. They have powers to take following actions under Rule 9 of the said Rules against lent officers of the Federal Government in BS-17 and above:-

a) With prior approval of the Establishment Secretary, to send such officers on forced leave for a period of three months or to recommend suspension from service and extension in forced leave and suspension, in terms of Rule 5(1) of the said Rules;

b) With prior approval of the authority i.e. the Chief Executive, to frame charges/allegations and to initiate disciplinary action in terms of Rule 6(1)(a)&(b) of said Rules.

c) To transmit record of proceedings in case one or more penalties prescribed in the said rules are recommended to be imposed with due process of law after giving a reasonable opportunity of showing cause;

2. The designated "Authorities" also have the original as well as revisional powers under Rule 5(5) and Rule 7(A) of the Government Servants (E&D) Rules, 1973 which include powers to call for record of any case pending before or disposed of by the Authorised Officer and to pass such order in relation thereto as it may deem fit. Similarly, the appellate authorities under the civil servants (Appeal) Rules, 1977 have full powers to modify the orders passed by the departmental authority or the Authorised Officer in cases of appeal where the penalty imposed upon the accused officer is considered inadequate.

3. The Chief Executive of Pakistan, in the light of the above, has been pleased to direct that in order to enforce the Government Servants (E&D) Rules, 1973 and the Civil Servants (Appeal) Rules, 1977 in true spirit, the designated "Authorities" "Authorised Officers" and the Appellate Authorities shall invoke the above mentioned provisions of law/rules whenever such a situation arises, without any leniency or hesitation for conclusion of disciplinary proceedings strictly on merit. It is desired that the aforementioned directions of the Chief Executive be fully implemented and due care taken to strictly observe the provisions of Rules, prescribed procedures and instructions issued on the subject from time to time.

4. All Provincial Governments are advised to ensure that upto date lists of all pending disciplinary cases against lent officers including APUG/OMG and other Federal Government Servants presently serving under provincial governments shall be sent periodically to the Discipline Wing of the Establishment Division for scrutiny/re-assessment etc on the proforma already prescribed vide Establishment Division O.M No.1/3/70-D.1 dated 7 May, 1970.

5. The above instructions may kindly be communicated to all concerned for proper guidance and strict compliance in future.

It has come to the notice of the President that a large number of cases of disciplinary nature are pending final disposal since long and in some cases for over years. This is obviously contrary to the dictates of justice, and inevitably, results in undue hardship to the affected persons, particularly those in the lower income groups. Besides these delays, invariably subject the administration to unnecessary criticisms.

2. It is, therefore, advised that each Ministry/Division/Department and semi-autonomous bodies under the Federal Government should maintain suitable records of all cases of Gazetted and non-Gazetted staff wherein investigations/ inquiries have been instituted and disciplinary action is proposed to be initiated or has been initiated showing the reasons for initiation of such action. Periodic progress in the disposal of each case should be recorded therein to facilitate authorities concerned to conduct quick scrutiny for assessing delays, their causes and to pursue their expeditious disposal.

3. All Ministers/Divisions/Departments and semi-autonomous bodies are requested to prepare an up-to-date list of all disciplinary cases pending with them in the enclosed proforma (Annexure) and forward it, in duplicate, to the Establishment Division.

ANNEXURE

STATEMENT SHOWING PARTICULARS OF DISCIPLINARY CASES PENDING OR PROPOSED TO BE INITIATED IN THE MINISTERIES DIVISIONS/DEPARTMENTS/ SEMI.AUTONOMOUS BODIES

Name of Division/Department etc. ______________________

Name & particular of official concerned	Date of receipt of complaint/ allegation etc.	Whether investigations/ inquiries have been instituted or disciplinary action is proposed to be initiated	Reasons in brief for instituting or proposing disciplinary action.	Date of initiating departmental action.	Whether the person concerned is under suspension if so from what date	Present position of the case	Reasons for delay	The period by which the case is expected to be finalised	Remarks
1	2	3	4	5	6	7	8	9	10

(Authority Cabinet Secretariat Establishment Divn. Islamabad D.O letter No.11/5/2000/D.I, dated 2.3.2000 & S&GAD Letter No.SOR-II(&GAD)5(29)99.V.III) dated 29.3.2000)

Disciplinary proceedings under Government Servants (E&D) Rules, 1973 against accused government servants strict observation of rules and procedure.

I am directed to refer to the subject noted above and to enclose herewith a copy of D.O. letter No.11/5/2000-D.1, dated 27.3.2000 received from Joint Secretary (D&L), Cabinet Secretariat, Establishment Division, Government of Pakistan, Islamabad for guidance and strict compliance.

D.O letter

It has generally been observed that in dealing with disciplinary cases against Government Servants due care is not taken to observe the provisions of Government Servants (E&D) Rules, 1973 and instructions issued thereunder. Certain legal and procedural irregularities and infirmities have come to the notice of the Federal Government particularly with regard to framing and issuance of Charge Sheet alongwith statement of allegations, appointment of Inquiry Officer/Inquiry Committee and conduct of inquiry proceedings and undue delay in the finalization of disciplinary proceedings etc. certain omissions are grave in nature and failure to comply with the requirement of Government Servants (E&D) Rules, 1973 can vitiate the proceedings conducted against the accused officer. It is therefore, necessary that extreme care should be taken by the Authorized Officers, Inquiry Officers and the Authorities to ensure that disciplinary cases are dealt with according to prescribed rules and procedure.

2. It is accordingly requested that the instructions issued form time to time particularly the instructions at S.No..97-100 Pages 519-527 ESTACODE 1989 Edition, should be strictly followed by the Ministries/divisions/Departments. For facility of reference following instructions are again circulated for information and strict compliance.

(a) On receipt of complaint against any officer/official the matter should be placed before the designated authorised officer. It is the authorised officer who has to formulate his opinion and to reach a provisional conclusion regarding charges/allegations against the accused officer/official for which he can order holding of preliminary fact finding inquiry or probe. If in the opinion of the authorised officer the charges/allegations are grave in nature, he may, if competent, pass order to remove the accused officer from his job or recommend the said action. He may also if necessary send the officer on forced leave or recommend suspension of the officer to the authority. Authorised Officer is also competent to initiate proceedings after framing of charges. The E&D Rules have given adequate powers to the authorised officers in this regard. As a uniform policy all accused officers against whom formal proceedings under E&D Rules or criminal proceedings have been initiated, should be removed from their positions till finalization of said proceedings.

(b) In order to conduct inquiry proceedings expeditiously, the competent officers of unimpeachable integrity should be appointed as the inquiry officers/ members of Inquiry Committee by the authorised officers. The Inquiry Officer/members of Inquiry committee should be senior to the accused officer and well aware of the rules/instructions. The provisions laid down in Rules 6 &7 of the Government Servants (E&D) Rules, 1973 regarding conduct of inquiry proceedings should be fully complied with Departmental

Representative well conversant with facts and official record should be appointed by the authorised officers where ever required.

(c) The Rule 5 (2) and 5(3) of the Government Servants (E&D) Rules, 1973 give exclusive powers to the authorised officer to decide whether in the light of facts of the case or the interest of justice an inquiry should be conducted or it is not necessary to conduct an inquiry. The final decision to this effect has to be taken by the authorised officer, however in cases where minimum required evidence is available, the inquiry proceedings should be dispensed with and action under Rule 5(3) of the said rules may be taken. The mandatory requirements of issuing show cause notice and reasonable opportunity of written and oral defence through grant of personal hearing should be met before awarding minor penalty to the accused officer or recommending major penalty to the Authority.

(d) The Authorised Officers are required to ensure that disciplinary proceedings are conducted efficiently and expeditiously. They should monitor the proceedings properly and issue instructions to inquiry officer/Inquiry Committee for quick disposal of disciplinary cases.

3. All Ministries/Divisions/Provincial Governments are requested to ensure that provisions of Government Servants (E&D) Rules, 1973 alongwith instructions issued by Establishment Division from time to time regarding conduct of disciplinary proceedings are fully complied with in future by the officers responsible for discharging their duties under the said rules before and during the currency of the disciplinary proceedings against the civil servants as Authority, authorised officer or Inquiry Officer.

(Authority Cabinet Sectt: Estab: Divn. Islamabad letter No.11/5/2000-D-1,
Dated 27.3.2000 & S&GAD letter No. SOR-II(S&GAD)5(29)/99/Vol-III, dated 21.4.2000)

Disciplinary proceedings under Government Servants (E&D) Rules, 1973 against accused government servants strict observation of rules and procedure.

I am directed to refer to this department letter No.SOR-II (S&GAD)5(29)/99. Vol-III, dated 29.3.2000 and even number dated 21.4.2000 on the subject noted above where under D.O letters of Cabinet Secretariat, Establishment Division bearing No.11/5/2000/D.I, dated 2.3.2000 and the same number dated 27.3.2000 were circulated for information, guidance and compliance of all concerned. In continuation therefore, a copy of the D.O letter of Govt. of Pakistan, Establishment Division bearing No.11/5/2000/D.I, dated 17.4.2000 alongwith a copy of the proforma already circulated with this department letter of 29.3.2000 with the request to please ensure compliance of the instructions contained in aforesaid three D.O. letters in letter & spirit.

<u>Office Memorandum</u>

The under signed is directed to refer to Establishment Division's D.O. letter of even number dated 26.2.2000 and O.M of even number dated 27.3.2000 on the above subject and to state that the competent authority has been pleased to direct that the following time frame for periodical submission of lists of all disciplinary cases and finalization of disciplinary proceedings in process against accused officers under Government Servants (E&D) Rules, 1973 may kindly be strictly observed:-

i) The upto date lists of all disciplinary cases (initiated, pending and finalised) shall be sent on monthly basis to the Joint Secretary Discipline Wing of Establishment Division on the specified proforma, before the 10th of every month.

ii) All the pending disciplinary cases against government servants where charge sheets have been served should be finalized within a period of one month positively.

iii) In future it should be ensured by the designated authorities and authorised officers that a disciplinary case initiated against a government servant is finalised within a period of 90 days without any delay.

2. All the Secretaries/Additional Secretaries Incharge of Ministries/Divisions and Chief Secretaries of the Provincial Governments are requested to kindly circulate the above mentioned position for the information and strict compliance of all concerned quarters. It is further requested that any government servant found responsible for causing unnecessary delay in finalization of disciplinary proceedings may be pointed out and disciplinary action against him initiated under relevant rules.

(Authority Cabinet Sectt: Estab. Divn. Islamabad letter No.11/5/2000-D-I,
Dated 17.4.2000 & S&GAD letter No.SORII(S&GAD)5(29)2000 dated 28.4.2000)

Disciplinary proceedings under Government Servants (E&D) Rules, 1973 against accused Government Servants: Furnishing of case material.

I am directed to refer to the subject noted above and to enclose herewith a copy of d.o. letter No. 11/5/2000-D.I, dated 4.5.2000 received from Joint Secretary (D&L), Cabinet Secretariat, Establishment Division, Government of Pakistan Islamabad for guidance and strict compliance.

Office Memorandum

The undersigned is directed to state that instances have come to the notice of the Establishment Division that the Miniseries/Divisions and Provincial Governments while forwarding the cases for obtaining the orders of the competent authority i.e. Establishment Secretary under Rule 5(1)(i) of the Government Servants (E&D) Rules, 1973 do not generally observe the provisions of said rules, laid down procedure and earlier instructions issued on the subject matter. It has particularly been observed that the copies of relevant documents and case material against the accused officers are not enclosed as annexure alongwith the Summary/Note for the Establishment Secretary, duly signed by the respective authorised officers on the subject.

2. All the Secretaries/Additional Secretaries Incharge of Ministries/ Divisions and Chief Secretaries of the Provincial Governments are requested to kindly ensure that while forwarding the cases of BS-17 and above of Federal Government Servants, for obtaining the orders of the Establishment Secretary under Rule 5 (1)(i) of the Government Servants (E&D) Rules, 1973, following information and copies of documents be enclosed alongwith the Summary/Note:-

(i) In case of the proposals for placing BS-17 and above Federal Government Servants under suspension, copies of all relevant documents/case material including bio data of the accused officer and copies of documents on the basis of which suspension of the

officer is necessitated viz. any complaint or fact finding inquiry/probe etc. be provided.

(ii) In case of a request for extension in suspension period of a Government Servant under suspension or extension in forced leave period, on expiry of current sanction after three months, the present position of the disciplinary case including the stage of inquiry if it is in progress, may invariably be stated in the said proposal.

(iii) In case of recommendation for reinstatement in service of a Government Servant under suspension or termination of forced leave period, the copies of complete record of proceedings viz charge sheet alongwith statement of allegations, show cause notice if issued instead of charge sheet, report of the Inquiry Officer and final orders of the Authorized Officer etc. be provided.

3. The above instructions may kindly be communicated to all the concerned quarters for guidance and compliance in future.

(Authority Cabinet Sectt: Estb: Divn. Islamabad letter No.11/5/2000-D.1, dated 4.5.2000 & S&GAD letter No.SOR.II(S&GAD)5(29)2000, dated 24.5.2000)

Disciplinary proceedings under Government Servants (E&D) 1973 against Government Servants: Strict observance of Rules & Procedure.

I am directed to refer to the subject noted above and to enclose herewith a copy of d.o letter No.11/5/2000-D.1, dated 24th May, 2000 received from Deputy Secretary (D), Cabinet Secretariat, Establishment Division, Government of Pakistan, Islamabad for guidance and strict compliance.

Office Memorandum

The undersigned is directed to refer to Establishment Division's O.M of even number dated 17th April, 2000 on the above subject and to state that all Ministries/ Divisions/ Provincial Governments were requested to ensure that all pending disciplinary cases against Government Servants, where charge sheets have been served, should be finalized within a period of one month positively. It was further requested that any government Servant found responsible for causing unnecessary delay in finalization of disciplinary proceedings be pointed out and action against him be initiated under relevant rules. A considerable time period has since passed and it has been noticed that the pending disciplinary proceedings have not been finalised by the respective Inquiry Officers and the Authorized Officers under Government Servants (E&D) Rules, 1973.

2. The competent authority has taken a serious notice of the situation and has directed that strict instructions should again be issued to all the Inquiry Officers for conducting inquiry proceedings on day to day basis and to finalize them within ten days positively. In case of failure of the Inquiry Officers to finalise the cases with the specified period, their names and particulars may be provided to Establishment Division for initiation of necessary action against them.

3. All Ministries/Divisions/Provincial Governments are requested to ensure that the orders of the competent authority are implemented properly and the compliance reports are regularly furnished to Establishment Division.

(Authority Cabinet Sectt: Estb: Divn. Islamabad letter No.11/5/2000-D.1, dated 24th May, 2000 and S&GAD letter No.SOR.II(S&GAD)5(29)2000, dated 2.6.2000)

Government Servants Appeal Rules

Statutory provision

Section 22 of the NWFP Civil Servants Act,1973

Right of Appeal or Representation:- (1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

THE NORTH WEST FRONTIER PROVINCE CIVIL SERVANTS [130] (APPEAL) RULES,1986.

1. **Short title, commencement and application:-** (1) These Rules may be called the North-West Frontier Province Civil Servants (Appeal) Rules,1986.

(2) They shall come into force at once and shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service in connection with the affairs of the Province.

2. **Definitions:-**In these rules, unless there is anything repugnant in the subject or context;

(a) "Appellate Authority" means the officer or authority next above the competent authority;

(b) "Competent Authority" means the authority or authorised officer, as the case may be, as defined in the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules,1973, or the authority competent to appoint a civil servant under the rules applicable to him; and

(c) "Penalty" means any of the penalties specified in rule 4 of the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973.

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[130] Published in the NWFP Government Gazette, Extraordinary, dated 2.6.1986 at Pages 1290-93

3. **Right of Appeal:-**(1) A civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority:

Provided that where the order is made by the Government, there shall be no appeal but the civil servant may submit a review petition:

[131]Provided further that the appellate or the reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority.

Explanation:-For the purposes of the first proviso, the expression "appeal", where the context so requires, shall mean the "review petition" as well.

(2) Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately.

(3) Where the aggrieved civil servant has died, the appeal may be filed, or if already filed by such civil servant before his death, may be pursued, by his legal heir or heirs; provided that the benefit likely to accrue on the acceptance of such appeal is admissible to such legal heir or heirs under any rules for the time being applicable to civil servants.

4. **Form of Memorandum:-**(1)Every memorandum of appeal shall-

(a) contain full name and address, official designation and place of posting of the appellant;

(b) state in brief the facts leading to the appeal;

(c) be accompanied by a certified copy of the order appealed against and copies of all other documents on which the appellant wishes to rely.

Explanation:-Where an aggrieved civil servant has died, his legal heir or heirs, while filing the appeal or applying for review, as the case may be, shall also add documents in support of his or their relationship with the deceased civil servant.

(2) The appeal shall be submitted through the Head of the office in which the appellant is posted at the time of filing the appeal, or in the case of a deceased civil servant, where he was last posted before his death. The Head of the office shall forward the appeal to the competent authority, if he himself is not such authority and the competent authority shall after adding his own comments, if any, transmit the appeal to the appellate authority for necessary orders.

(3) No appeal shall be entertained if it contains abusive, disrespectful or improper language.

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[131] The second proviso of sub-rule(1) of rule 3 substituted by Notification No.SORII(S&GAD)3(4)/78/Vol.II dated 3.12.1989.

5. **Action by the appellate authority:-** (1)The appellate authority, after making such further inquiry or calling for such information or record or giving the appellant an opportunity of being heard, as it may consider necessary, shall determine-

(a) whether the facts on which the order appealed against was based have been established;

(b) whether the facts established afford sufficient ground for taking action ; and

(c) Whether the penalty is excessive, adequate or inadequate and after such determination, shall confirm, set aside or pass such order as it thinks proper; provided that no order increasing the penalty shall be passed without giving the appellant an opportunity of showing cause as to why such penalty should not be increased.

(2) The competent authority against whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority and shall cause the order so passed to be communicated to the appellant without undue delay.

6. **Withholding of appeal in certain cases:-**An appeal be withheld by the competent authority if-

(a) It is an appeal in which no appeal lies under these rules;
or
(b) it does not comply with the requirements of rule 4;
or
(c) it is not preferred within the time limit specified in sub-rule(1) of Rule 3 and no reason is given for the delay;
or
(d) it is addressed to an authority or officer to whom no appeal lies under these rules;

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it.

Provided further that an appeal withheld for failure to comply with the requirements of Rule 4 or clause(d) of this sub-rule may be resubmitted within thirty days of the date on which the appellant is informed of the withholding of the appeal and, if resubmitted properly in accordance with the requirements of these rules, shall be deemed to be an appeal under Rule 3 and shall be dealt with in accordance with the provisions of these rules.

(2) No appeal shall lie against the withholding of an appeal under this rule.

7. **Disposal of appeal:-**(1)Every appeal which is not withheld under these rules shall be forwarded to the appellate authority alongwith the comments by the competent authority from whose order the appeal is preferred.

(2) A list of appeals withheld under Rule 6, with reasons for withholding them, shall be forwarded quarterly by the withholding authority to the appellate authority.

(3) The appellate authority may call for any appeal admissible under these rules which has been withheld by the competent authority and may pass such order thereon as it considers fit.

8. **Savings:-**Nothing in these rules shall operate to deprive any person of any right of appeal which he would have if these rules had not been made, in respect of any orders passed before they came into force.

9. **Pending appeals:-**All appeals pending immediately before the coming into force of these rules shall be deemed to be appeals under these rules.

10**.** **Repeal:-**The North-West Frontier Province Civil Services (Punishment and Appeal) Rules,1943, are hereby repealed.

Determination of the 'Appellate Authority' in terms of the Civil Servants(Appeal) Rules,1977.

It has been observed that Ministries/Divisions/Departments do not generally follow the prescribed procedure regarding submission of appeals/ petitions to the Establishment Division, for obtaining orders of the Prime Minister or the President, as the case may be in terms of Civil Servants (Appeal) Rules, 1977 read with Rule 15-A of Rules of Business,1975. In number of cases the appeals/petitions processed by the respective Ministries/Divisions etc. have been found to have not been addressed to the proper appellate authority. In such a case, to avoid delay, the receiving authority, should withhold the appeal and simultaneously inform the appellant to re-submit the same duly addressed to the proper appellate Authority to be indicated as required under Rule 7 of the said rules. The case relating to an appeal should invariably be submitted to the Establishment Division in the form of a Summary titled as "Summary for the Prime Minister" seeking orders of the President where the President is an Appellate Authority alongwith the appeal (in original) with parawise comments to be given in juxta-position in the form of a statement as indicated overleaf.

2. In this connection, it may be pointed out that an appeal from a civil servant in BPS-17 and above against imposition of any minor penalty, as prescribed in Rule 4(i)(b) of Government Servants(E&D) Rules,1973, by an authorised Officer or a major penalty by the authority i.e. the Prime Minister under Rule 4(1)(a) shall lie to the President, in his capacity as the appellate authority, and shall be processed in accordance with Rule 15-A of the Rules of Business, 1973.

3. All Ministries/Divisions/Provincial Governments are requested to bring the said position to the notice of all concerned for their information and guidance.

(Authority:Establishment Division O.M No.5/4/94-Rev/D.3, dated 17.3.1997
circulated by NWFP Government letter No.SORII(S&GAD)5(27)79, dated 9.5.1997)

Anonymous Complaints/Letters

Disposal of Enquiry cases based on anonymous/ Pseudonymous complaints.

The following instructions may be followed during disposal of anonymous communications**:-**

1. Anonymous communications must invariably be filed on their receipt. No action of any kind is to be taken on them and no notice of any kind is to be taken on their contents. If the communication is found to be pseudonymous it (and any previous notes etc. connected with it) must similarly be filed.

2. It is however recognized that there may be exceptional cases, when anonymous/ pseudonymous communication contain allegations of a specific nature having a ring of truth, then these may be inquired into only after obtaining the orders of Administrative Secretaries/Head of Attached Department/ Commissioners/ Deputy Commissioners, as the case may be.

3. Local heads of Police officers in the Districts can also exercise discretion to order enquiries into anonymous and pseudonymous petition on the analogy of Deputy Commissioners in their respective jurisdictions. Since the Deputy Commissioner is the General Administrative head of the District, his orders should be obtained by the concerned head of office under his administrative control if he wants to take action on any anonymous petition.

4. Anonymous petitions or letters should normally be filed except when definite allegations are made and concrete instances given.

5. In complaint against a civil servant, the petitioner should be asked to furnish an affidavit to the effect that all facts stated in his complaint are true and if his affidavit is proved false, he would be prepared to face legal action which could be taken against him.

6. Complaints received through anonymous/pseudonymous source should be ignored.

7. Antecedents and credentials of a complaint should be verified before an inquiry is instituted against the officials concerned.

8. News papers publishing allegations, which are proved to be baseless, should be dealt with according to the law.

It is requested that strict observance of the above instructions may be ensured at all levels.

(Authority:-S&GAD's letter No.SORII(S&GAD)5(29)/97-II, dated 22.7.1998)

Disposal of anonymous/pseudonymous complaints.

I am directed to invite attention to this Department circular letter of even number dated 22.7.98, wherein detailed instructions with regard to the disposal of anonymous/ pseudonymous complaints had been issued. It has been observed that the aforesaid instructions are either not being followed or have been lost sight of as anonymous/ pseudonymous complaints are still being received which on investigation, are found baseless resulting in wastage of time and energy of the Government functionaries and stationery of the Government which could usefully be utilised in pursuits of public interest.

2. I am, therefore, directed to request once again that anonymous/pseudonymous letters/ complaints should not be entertained in any Government Department/office in future.

3. The above instructions may kindly be brought to the notice of all concerned and noted for strict compliance.

(Authority S&GAD letter NO.SORII(S&GAD)5(29)97 Vol-II, dated 15.11.1999)

Conducting of Inquiries into complaints.

I am directed to refer to the subject noted above and to state that in a case of inquiry pertaining to Agency Headquarters Hospital, Landikotal, the Chief Secretary NWFP was pleased to observe that in very rare cases anybody responsible would admit a mistake or a fault. It has therefore been desired that while dealing with such complaints the officer conducting a particular enquiry should be a little more discerning, otherwise the entire exercise would become meaningless. The Departments should not treat every complaint as a noose around their neck. The idea of conducting inquiries into the alleged malpractices is simply to see inwardly and reform/correct the situation wherever anything goes wrong. In all cases so far referred to the Departments, the charges leveled against individual officers are denied and no case has been reported in which corrective action was taken.

In view of the position explained above, the instructions of the Competent Authority as mentioned above may please be noted for strict compliance. These instructions may also be circulated amongst the attached departments and sub-ordinate offices for similar action.

(Authority S&GAD letter No.SO(Coord)/PMC/S&GAD/1-1/99/853-95 dated 2.3.2000)

North-West Frontier Province Anti-corruption Establishment rules, 1999.

In exercise of the powers conferred by section 6 of the West Pakistan Anti-Corruption Ordinance, 1961 (W.P.Ord.XX of 1961), and in supersession of the West Pakistan Anti-Corruption Establishment Rules, 1965, the Governor of the North-West Frontier Province is pleased to make the following rules, namely:-

1. **Short title and commencement:-** These rules may be called the North West Frontier Province Anti-corruption Establishment Rules, 1999.

(2) They shall come into force at once.

2. **Definitions:-** (1) In these rules, unless the subject or context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

(a) "Act" means the Prevention of Corruption Act, 1947 (Act No.II of 1947);

(b) "Assistant Director" means an officer in charge of Anti-Corruption Establishment in a Division;

(c) "Chief Secretary" means the Chief Secretary to the Government of North West Frontier Province;

(d) "Circle Officer" means the officer incharge of the Anti-Corruption circle in a District;

(e) "Competent Authority" means the authority competent to accord permission to hold an enquiry, to order registration of a criminal case, permit submission of a challan to court, drop the case after investigation and decide departmental action under the rules;

(f) "Director" means the Director of the Establishment;

(g) "Establishment" means the Anti-corruption Establishment of the North-West Frontier Province;

(h) "Government" means the Government of the North-West Frontier Province;

(i) "Head of Attached Department" means an officer incharge of the Department declared as such by Government; and

(j) "Ordinance" means the Anti-Corruption Establishment Ordinance, 1961(W.P.Ord.No.XX of 1961); and

(2) The expressions used but not defined in these rules shall have the same meanings as respectively assigned to them in the Act and the Ordinance.

3. **Preliminary/Open enquiries against Public Servants**.

(1) Preliminary inquiries and investigations against public servants shall be initiated by the Establishment on complaints received from government, Head of Departments or other reliable sources.

(2) The Director shall initiate preliminary/open enquiries in order to ascertain the identity of the complaint or informer and genuineness of the complainant or information.

(3) It shall be incumbent on the Head of concerned Department/Office to provide the relevant record required in connection with enquiries/ investigations as soon as a request is made by the Establishment.

Provided the enquiry against the Commissioners of Divisions, Secretaries to the Provincial Government, Head of Attached Departments and other officers in BPS-19 and above shall be initiated by the Director with prior permission of the Chief Secretary.

4. **Registration of cases/arrest of accused**.

(1) Criminal cases shall be registered by the Establishment under the Prevention of Corruption Act 1947 and under such sections of Pakistan Penal Code, as have been set forth in the Schedule to the Ordinance.

(2) Criminal cases shall be registered against accused public servants under the written orders of the officers mentioned below:-

(a) Public Servants in BPS-18 & below - Director

(b) Public Servants in BPS-19 & above - Chief Secretary

Provided that for Public Servants in BPS-19 and above, the Chief Secretary, before according permission, may, in his discretion, get the case examined by a Judicial Officer specially appointed in the S&GAD for the purpose.

Provided further that no prior permission shall be required for registration of a case against a public servant caught as a result of a trap arranged by the Establishment under the supervision of a Magistrate, in the act of committing an offence specified in the schedule to the Ordinance. In such a case, a report shall immediately be made to the Chief Secretary, the Administrative Secretary and immediate superior of the public servant concerned if he is in BPS-16 and above, and to the appointing authority and immediate superior officer if the public servant is in BPS-15 and below.

(3) If the competent authority under sub rule (2) above decides not to register a case, he shall record reasons therefor.

(4) While making a request for registration of a case against the accused public servant, a simultaneous request may be made by the Establishment to the authorities specified below if the arrest is so required during the investigation:-

(a) Public Servants upto BPS-16 - Director

(b) Public Servants in PBS-17 & above - Chief Secretary

Provided that no prior permission shall be necessary for the arrest of a public servant caught as a result of a trap as mentioned in the last proviso to sub-rule(2) of Rule-4.

5. **Informing Administrative Department regarding registration of case and arrest.**

As soon as may be, after registration of a case against a public servant, the Establishment shall inform the Administrative Secretary and immediate superior of the public servant involved if he is in BPS-16 or above, and the appointing authority and immediate superior in case of a public servant in BPS-15 and below, giving a gist of allegations upon which the case has been registered. The said authorities shall also be informed immediately after the arrest of the accused public servant.

6. **Time limit for completion of preliminary/open enquiries and investigations.**

Preliminary/open enquiries and investigation of the case shall be completed within one month and two months respectively.

Provided that the aforementioned time limit may be extended by the competent authority as mentioned below if reasonable grounds exist for such extension:-

(a) Public Servants in BPS-18 & below - Director
(b) Public Servants in BPS-19 & above - Chief Secretary

7. **Traps:-** In all cases of raids, the Deputy Commissioner or, in his absence, the Additional Deputy Commissioner of the District, if any, shall, on approach by the officer of the Establishment posted in the District/Agency, depute a magistrate for supervising the raid.

8. **Permission for submission of challan, recommending departmental action and drop of the case.**

(1) On completion of investigation, the authorities indicated below may accord permission for submission of challan to the Court:-

(a) Director in cases in which public servants upto BPS-17 are involved.

(b) Chief Secretary in cases in which officers in BPS-18 and above are involved.

(2) If, after, investigation, it is found that prosecution is not called for but sufficient material is available on record for departmental action, the Establishment shall move the departmental authorities for departmental proceedings under the NWFP Government Servants (Efficiency and Discipline) Rules, 1973.

(3) On completion of investigation, if allegations are not established the case shall be dropped and an intimation to this effect shall be sent to the authorities mentioned in sub-rule(2) of Rule-4

(4) The authorities mentioned in sub-rule (1) above shall decide dropping of cases or departmental action.

(5) After a decision to take departmental action has been made under the foregoing sub-rule, the competent authority shall initiate departmental proceedings against the accused public servant.

(6) Copies of final report and summaries of dropped cases shall not be supplied without permission of the Director.

(7) When a decision to hold departmental enquiry against a public servant is taken, the Establishment shall provide facts of the case, statement of allegations, list of witnesses and documents, if any, to the Authority/ Authorised Officer prescribed under the NWFP Government Servants (Efficiency &Discipline) Rules, 1973.

(8) As soon as the proceedings under the NWFP Government Servants (Efficiency & Discipline) Rules, 1973 are completed and final orders have been passed by the Authorised Officer or the Authority, as the case may be, result of the same shall be intimated to the Establishment alongwith copies of such orders and the report of the Inquiry Officer for completion of record.

9. **Where Senior Public Servant are involved alongwith Junior Public Servants.**

For the purpose of initiation of preliminary/open enquiries, registration of cases, dropping the cases after investigation, or referring the same for departmental action, or taking a decision with regard to prosecution, if more than one public servant are involved, the competent authority for these decisions shall be the one which is in case of public servants in the highest BPS.

10. **Police Station of Establishment**,

Cases shall be registered by the Establishment at the Police Station of the Establishment having the jurisdiction.

11. **Application of Police Rules**.

The Establishment shall, as far as may be, follow the provisions of Police Rules 1934 in the investigation and enquiry of offences specified in the Schedule to the Ordinance.

Provided that a reference to the District Magistrate under Rule 16.38 of the said Police Rules for initiating proceedings, departmental or judicial, against any Police Officer shall not be necessary.

12. **Suo-Moto Examination.**

(1) The Director may suo-moto or otherwise call for the record of any case/enquiry pending investigation with the Establishment, examine it and give such direction as may be necessary for the speedy, fair and just disposal of the same.

(2) The Chief Secretary may suo-moto or otherwise call for the record of any case or enquiry, for the purpose of satisfying himself as to the correctness or propriety of decision taken under clause (a) of sub-rule (1) of Rule-8 and may pass such orders as deemed appropriate.

13. **Pending enquiries and investigations**.

The pending enquiries and investigation of cases under the West Pakistan Anti-Corruption Establishment Rules 1965, shall be processed further under these rules, from the stage up to which they have been completed under the previous rules.

(Authority S&GAD letter No. SOS-III(S&GAD)4(6)/98 dated 15.12.1999)

Recovery of losses from Government Officers/ Officials on reports of Anti-Corruption Establishment/ on directions of Public Account Committee.

I am directed to refer to the subject and to state that the competent authority has been pleased to order the recovery of losses caused to Government from the accused officers/ officials – without going through the process of initiating action under the Efficiency and Discipline Rules. Experience shows that judicial cases filed by the Anti-Corruption Establishment seldom succeed in the trial courts. In this context, it may be stated that recovery from accused officers in certain cases have been effected by some Works Department of the Provincial Government.

2. The competent authority has further been pleased to direct that recoveries in all cases should be materialised urgently including P.A.C cases. The recoveries so materialised should be reported separately on monthly basis and this should also be highlighted in the press.

3. I am therefore directed to request you to take immediate necessary action to implement the above directions of the Provincial Government in letter and spirit.

(Authority S&GAD letter No.SOR-II(S&GAD)5(29)/97 dated 30.9.98)

MISC: INSTRUCTIONS

Prompt disposal of Official Business.

I am directed to refer to the subject noted above and to state that the Chief Minister, NWFP has expressed his displeasure over undue delays in disposal of official business in almost all the Government Departments of the Provincial Government. It is pointed out that Government functionaries do not follow the prescribed procedure and take things lightly, which creates numerous problems not only for the general public but also brings bad name to the Government.

2. Needless to add that detailed instructions under Appendix-II para-7(c), read with paras-177 & 180 of the Manual of Secretariat Instructions have been issued for prompt disposal of Government business. However, these guidelines are being violated and no cognizance is being taken by the head of the Departments. The delinquent officers/officials are required to be compelled to ensure that official work is done expeditiously and in the manner prescribed by the Government.

3. I am, therefore, directed to request you to kindly bring these instructions to the notice of all concerned working under your administrative control for strict compliance.

(Authority S&GAD Letter No. SOR-II(S&GAD)5(29) dated 3.4.99)

Prompt and efficient disposal of Government Business

Our efforts to achieve quality and poor-friendly governance hinge on achievements of efficiency in the processing of official business, prompt and sagacious decision-making and the meaningful implementation of the decisions at the operational level for the benefit of the general public.

2. The NWFP Government Rules of Business, 1985 provide a proficient instrument for achieving that purpose. Therefore, the channels of communication envisioned in the Rules of Business, which have been emphasized time and again, need to be strictly followed.

3. The following procedure may for that reason be strictly adhered to:-

a. All cases/summaries requiring consultation with the Finance Department in accordance with Rule 11 of the Rules of Business may be sent to the Finance Department for adding their views before these are submitted to the Chief Secretary's office. In turn the Finance Department will ensure that no such case is kept in the Department for a period more than 7 working days, and shall promptly be submitted to the Chief Secretary's office with concise and clear views.

b. Similarly, cases/summaries requiring consultation with the Law Department in accordance with Rule 12 of the Rules of Business may be sent to the Law Department for adding their views before these are submitted to the Chief Secretary's office. The Law Department will thereafter ensure that no such case is kept in the Department for a period

more than 7 working days, and is promptly submitted to Chief Secretary's office with concise and clear views. References where vetting of the Law Department of a legal instrument, Act, Ordinance, Service Rules and / or Notification is required, shall not be delayed for a period of more than 15 working days.

c. Furthermore, all Administrative Departments shall ensure that reference sent to them from the higher authorities are re-submitted, or disposed of, within a fortnight and the same time line is adopted in their respective Directorates.

d. In cases of posting/transfer from and to FATA, the Departments would invariably propose a substitute who should give his arrival in FATA first. Files containing such proposals should first be sent to the ACS FATA for adding his views before these are submitted to Chief Secretary's office.

e. In issues where meetings have been held, the minutes of the meeting shall invariably be issued within 2 working days of the meeting with clear directions to all concerned for implementation of various decisions.

4. The above procedure would require constant efforts from the Administrative Secretaries. In case of delay due to extenuating circumstances, an explanatory para explaining these may be added on submission of the case.

(Authority; No.PS/CS NWFP/2009/70-97, dated 03.4.2009)

Reference to the Law Department for vetting.

I am directed to refer to the subject noted above and to state that instructions were issued from time to time, laying down the modulation to be followed by the Administrative Departments while making references to the Law Department. In particular, attention is invited to the memorandum No.Legis:16 (21)/66/2430 dated the 20th April, 1966, issued by the Law Department of the former Government of West Pakistan.

2. It appears that the Administrative Departments have lost sight of the said memorandum, as a result whereof the references are being made to the Law Department in total disregard of the requirements laid down therein.

3. For the convenience of the Administrative Departments, the requirements, which are to be complied with by them before referring the cases for vetting to the Law Department, are once again reproduced below:

a) The references should be made to the Law Department after consulting all the Departments concerned.

b) The draft for vetting must be neatly typed.

c) The draft must be accompanied by a self-contained note:-

i) explaining in detail the circumstances necessitating the proposed action;

ii) stating clearly that all Departments concerned have been consulted and that they agree to the proposed action or that no Department is concerned in the matter; and

iii) stating that all the prescribed formalities have been followed.

d) Both the note and the draft for vetting must be seen by the head of the Administrative Department.

e) Admn: Department must furnish an extra copy of both the note and each of the drafts required to be vetted, duly typed in double space.

f) Uptodate copies of the rules, regulations, byelaws etc. which are proposed to be amended or under which the notifications, orders, etc. are proposed to be issued, should in each case be furnished by the Admn: Department.

4. References received in the Law Department which do not comply with the above requirements, shall not be entertained.

(Authority Law Deptt Letter No.Legis:4(7)/71-IV/786 dated 17.2.2000
& S&GAD Endst: No.SOR-III(S&GAD)2-60/98, dated 23.2.2000)

NWFP Government Rules of Business, 1985 – Submission of summaries to the Governor, NWFP and Chief Secretary, NWFP

I am directed to refer to the subject cited above and to say that Rules 8 & 9 of the NWFP Government Rules of Business, 1985 inter-alia provide as under:-

Rule 8(1) When the subject of a case concerns more than one Department:

(a) the Department incharge shall be responsible for consulting the other Departments concerned; and

(b) no orders shall issue, nor shall the case ordinarily be submitted to the Chief Minister or the Cabinet until it has been considered by all the Departments concerned and they agree to it.

Rule 9(3) The Services and General Administration Department shall be responsible for –

(a) the determination of the principles of control of Government servants, including recruitment, conditions of service and discipline;

(b) the coordination of the policy of all Departments with respect to secure consistency of treatment;

(c) securing to all Government servants the rights and privileges conferred on them by or under any law for the time being in force.

2. It has, however, been noticed that the above-mentioned provisions of the NWFP Government Rules of Business, 1985 are not being observed. The Summaries involving service matters are being submitted to the Governor NWFP/Chief Secretary, NWFP without routing through Services & General Admn. Department as provided in the rules.

3. I am, therefore, directed to request you that in future all Summaries involving terms and conditions of services and discipline etc. should be routed through Services and General Admn. Department.

(Authority S&GAD letter No.SO(O&M)S&GAD/3-3/96 Vol.IV dated 29.12.99)

NWFP Government Rules of Business, 1985 - Submission of summaries to the Governor, NWFP and Chief Secretary, NWFP.

I am directed to refer to the subject cited above and to invite attention to this Department's Circular letter No.SO(O&M)S&GAD/3-3/96, dated 29.12.99 wherein it was requested that the provisions of Rules 8 & 9 of the NWFP Government Rules of Business, 1985 should be observed by the Administrative Departments and the Summaries involving service matters should not be submitted to the Governor, NWFP/Chief Secretary, NWFP without routing through S&GAD as provided under the rules.

2. It has, however, been observed by the Governor's Secretariat that the Administrative Secretaries use to send Summaries direct to the Chief Secretary, NWFP/Governor, NWFP even in cases where consultation among other Departments is necessary as required under Rule-8 of the NWFP Government Rules of Business, 1985.

3. In the wake of above, I am directed to state that Rules 8 & 9 of the NWFP Government Rules of Business, 1985 should be followed strictly and view of the Departments concerned should invariably be incorporated in the Summaries to be submitted to the Chief Secretary, NWFP/Governor, NWFP as required under the above rules.

(Authority S&GAD letter No.SO(O&M) S&GAD/10-6/99 dated 13.1.2000)

Submission of Summaries to the Governor, NWFP & Chief Secretary, NWFP

Further to our letter No.SO(O&M)S&GAD.10-6/99, dated 13 January 2000 and in order to streamline the subject matter and to obviate the chances of tempering with the contents of the cases and orders of various authorities at different level, it has further been directed that the following instructions must also be observed by all concerned with regard to submission of summaries/ Briefs/Notes to the competent authorities:-

i) All pages of the Summary/Brief/Note should be signed at bottom of the left margin of the paper by the initiating authority;

ii) Three to four additional blank pages both to the Summary as well as Note part be added and subject of the case should be typed on top of each blank page and be duly signed at bottom of the left margin by the initiating authority of the Summary/Brief/Note.

iii) All papers attached to the Summary etc should be indicated by proper and neat flags, which should either be printed or typed.

2. I am to request that the above instructions may be implemented in letter and spirit.

(Authority S&GAD Letter No.SO(O&M)S&GAD/10-6/2000 dated 8.2.2000)

Submission of cases to the Governor NWFP.

I am directed to refer to the subject noted above and to state that sub-rule (9) of Rule 5 of the NWFP Government Rules of Business, 1985 provides that the Ministers shall submit cases to the Governor as required by the provision of Rule 36 of the aforesaid rules. As per practice in vogue the summaries in accordance with Rule 36 of above rules are submitted to the Governor by the Administrative Secretaries by following the channel through their respective Provincial Minister and Chief Secretary. After obtaining order of the competent authority, these summaries (cases) are directly marked to the Administrative Secretaries for ease of quick implementation of orders without routing these again through respective Provincial Ministers. In the process, the Minister Incharge remain out of picture about the orders/decisions taken by the competent authority. It is, therefore, imperative that

decisions/orders passed by the competent authority must come to the notice of the Minister Incharge immediately after its receipt in the Department.

2. It has therefore been decided by the competent authority that immediately after the return of the summary (case) from the competent authority, the Administrative Secretary concerned must inform the Minister Incharge with regard to the decision/orders passed by the competent authority without fail.

(Authority S&GAD letter No.SOC(S&GAD)/99/Misc/4-31/Vol-III/2000 dated 18.1.2000)

Adoption of proper procedure for submission of summaries To Governor/Chief Minister, NWFP

I am directed to refer to the subject noted above and to state that it has been observed that the proper procedures regarding submission of summaries to the Governor, NWFP and /or Chief Minister, NWFP as laid down under the NWFP Govt. Rules of Business, 1985 read with the relevant provisions of the NWFP Manual of Secretariat Instructions, 2008 are not being observed.

2. Cases mandatorily required to be submitted to the Governor, NWFP and to the Chief Minister, NWFP and other matters/issues of policy significance or matters of importance for the province or effecting any of its interests etc, are required to be submitted through summaries. No other form such as Note or Brief or Concept Paper etc, is allowed to be adopted while submitting cases to the Governor, NWFP or Chief Minister, NWFP. The same is the case in so far as submission of cases to the Provincial Cabinet is concerned.

3. A case submitted to the Governor, NWFP, the Chief Minister, NWFP and the Provincial Cabinet for their orders is required to include a self-contained summary stating the relevant facts and the points for decision. The summary shall include the specific recommendations of the Minister-in-Charge, and shall be accompanied by a draft communication wherever required and appropriate.

4. Similarly, a case required to be submitted to the Governor through Chief Minister for his order shall include a self-contained summary stating the relevant facts and the points for decision. The summary shall be entitled "Summary for Chief Minister" and contain the specific advice or recommendations of the Chief Minister along with a separate paragraph to the effect that the case requires approval of the Governor.

5. Rules 5(9) to 5(11) of the NWFP Govt. Rules of Business, 1985 indicate the route relating to the submission of these cases to the Chief Minister and Governor, NWFP. Summaries shall be initiated by the Secretaries of the Provincial Departments. Summaries cannot be submitted by any official other than the Secretary of a Department. Heads of Attached Departments, Autonomous Bodies, Authorities, Universities, Commissions, Tribunals and Courts cannot submit such summaries. The Secretary of the Department shall after obtaining the views of the Minister Incharge submit the case to the Governor, NWFP or Chief Minister, NWFP through the Chief Secretary, NWFP.

6. Before submitting a summary the concerned Secretary of an Administrative Department is bound to obtain the views of the Finance Secretary/Finance Department where the case involves financial implications, the Establishment Department where issues concerning service matters are involved and the Law Department where a case involves any legal issue or an issue requiring legal advice/views or involving any matter pertaining to protection or pursuit of the legal interests of the Province or where the Province is impleaded or is required to act as a petitioner/suer in a legal case. Besides these, views of other Departments, who are in any way related, concerned, effected or whose interest may be effected by any decision or whose views are essential for arriving at a decision, shall be obtained by the Secretary concerned who is moving a summary.

7. If there is any doubt as to which Department a case properly pertains, the matter shall be referred to the Chief Secretary, NWFP who shall decide the matter. If required he may obtain the orders of the Chief Minister, NWFP.

8. Establishment Department letter No. SO(O&M)E&AD/3-5/2001 (GD), dated 14-09-2001 contains further relevant instructions which are given below:-

a. The Administrative Secretary concerned shall put up a summary to the respective Minister, containing considered views of the Department.

b. The Minister may or may not agree with the views/ recommendations of the Administrative Department.

c. In either case, the Minister will record his observations and forward the summary to the Chief Secretary.

d. Similarly, the Chief Secretary will forward the summary to the Governor/Chief Minister, NWFP with his observations, if any.

9. After the Governor, NWFP or Chief Minister, NWFP have passed their orders on a summary, the Secretary to the Governor, NWFP and/or the Principal Secretary to the Chief Minister, NWFP shall mark the summary back to the Chief Secretary, NWFP who will send it to the Secretary/Secretaries concerned for further necessary action, compliance and implementation.

10. Despite existence of these statutory provisions in the NWFP Govt. Rules of Business, 1985, the Manual of Secretariat Instructions, 2008 and other allied instructions, many cases are coming to light where Administrative Secretaries and other officials are not strictly adhering to them. It must be realized that these are not only legally binding requirements whose violation amounts to "misconduct" but also unnecessarily results in red-tapism as well as effects the quality of decision-making.

11. It has been decided that in future any summary submitted without observing these statutory requirements shall be returned to the Administrative Department concerned for submission of cases/summaries strictly in accordance with the Rules and Regulations.

(Authority: No. SO (O&M)E&AD/2-1/2008, Dated 30th May, 2008)

Correspondence/use of priority labels.

I am directed to refer to the subject cited above and to say that Paras 175, 177 and 180 of the Manual of Secretariat Instructions, inter-alia provide as under:-

Para-175: Use of priority labels:- The use of priority labels shall be restricted to cases where they are absolutely necessary. Utmost care should be exercised in the gradation of references and priority labels must not be used indiscriminately.

Para-177: Treatment of priority cases:- Cases requiring instant attention, to the exclusion of all other work which an officer may be doing at the time, should be labeled "IMMEDIATE"……. "IMMEDIATE" label should be used most sparingly.

Para-180: Cases requiring attention within 48 hours of submission shall be labeled "URGENT"

2. It has, however, been noticed by the Governor's Secretariat that the above-mentioned provisions of the Manual of Secretariat Instructions are not being observed while correct prioritization of cases in the Departments is very important for effective and efficient running of official business.

3. It has further been observed that this aspect is not being paid proper attention and official files/cases are unnecessarily labeled as 'IMMEDIATE' and sometimes 'MOST IMMEDIATE' irrespective of the procedure as laid down in the Manual of Secretariat Instructions. As a result of the indiscriminate use of such labeling, it becomes rather hard to comprehend because the word 'immediate' is already a superlative i.e indicating that an issue needs to be attended to "right now". Therefore, the use of 'most immediate' should be discontinued as there is no mention of the label 'MOST IMMEIDATE' in the use of priority labels in the NWFP Manual of Secretariat Instructions.

4. I am, therefore, directed to request you that in future the laid down procedure must strictly be adhered to while corresponding with different Departments/Offices.

(Authority S&GAD letter No.SO(O&M)S&GAD/3-4/2000, dated 3.5.2000)

Official Correspondence.

I am directed to refer to the subject cited above and to state that it has been observed by the Governor's Secretariat, NWFP that a large number of letters of irrelevant nature like charge reports of Officers are endorsed by Offices/Departments to the high ups in a routine manner particularly to the Governor's Secretariat without looking to the aspect that it results in waste of time. This practice does not seem to be in accordance with the laid down policy of the Government. It is need of the hour to avoid such wasteful exercise and to concentrate on real issues for judicious utilization of energy and time of Government officers.

2. In the wake of above, I am directed to request to kindly direct all concerned to avoid endorsing copies of un-necessary correspondence to Governor's Secretariat, Chief Secretary's Offices and other high ranking Officers.

(Authority S&GAD letter No.SO(O&M)/10-6/2000, dated 7.2.2000)

Constitution of Standing Service Rules Committee

Under the provision of Rule 3(2) of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the Provincial Government is pleased to constitute with immediate effect and in supersession of Services and General Administration Department Notification No.SOR.II (S&GAD)2(9)/97 dated 12th September, 2001, the Standing Service Rules Committee with the following composition:-

1.	Administrative Secretary concerned	Chairman
2.	Additional Secretary (Regulation) E&A Department	Member
3.	Additional Secretary (Regulation) Finance Department	Member
4.	Additional Secretary Law Department	Member
5.	Head of the attached Department concerned	Member
6.	Deputy Secretary(Admn) of the Department concerned	Member/Secretary

2. I am further directed to request that the Working Paper for the Standing Service Rules Committee should be prepared in light of instructions issued vide letter No.SOR-I (S&GAD) 1-206/74(A) dated 13th October, 1990.

(Authority: Notification No.SOR.VI(E&AD)2-69/2003. dated 29th Jan, 2005)

Framing of Service Rules/Recruitment Rules

I am directed to refer to this department letter No.SOR-I(S&GAD) 4-2/85, dated 4.12.1985, on the subject noted above and to enclose herewith revised proforma (Annexure 'I' and Annexure-'II') for initiating proposals for framing new Service/ Recruitment Rules. The Administrative Departments are requested that all proposals for framing of new Service Rules and amendments in the existing rules should be accompanied by a working paper (six copies) explaining background and justification for the proposal, particularly where existing rules are required to be amended.

2. It is requested that while sending proposals for framing of new Service Rules and making amendments in the existing rules, the qualifications proposed for appointment to posts should suit the requirement of the job.

3. It has been decided that the Law Department/Public Service Commission and Finance Department would in no case delay vetting/ clearance/ concurrence of rules for more than one month.

Annexure-I

NEW RULES

PROFORMA SHOWING PROPOSED METHOD OF RECRUITMENT APPLICABLE TO THE POSTS IN THE______________________

S.No.	Nomenclature of the post.	Minimum qualification for appointment by initial recruitment or by transfer	Minimum qualification for appointment by promotion	Age limit	Method of recruitment
1	2	3	4	5	6

Annexure-II

PROFORMA SHOWING PROPOSED AMENDMENT IN THE EXISTING SERVICE RULES

Nomenclature of the post. (Existing) (Proposed) (Reasons)	Qualification (Existing) (Proposed) (Reasons)	Age (Existing)(Proposed)(Reasons)	Method of recruitment (Existing) (Proposed) (Reasons)
2	3	4	5

Sanction of the post/posts
by the Finance Deptt may
also be quoted and enclosed.

(Authority; No.SOR-I(S&GAD) 1-206/74(A) Dated Peshawar 13.10.1990)

Framing of Service/Recruitment Rules.

I am directed to refer to this Department letter of even number dated 15.10.1998 on the subject noted above and to say that ever since the re-organization of the Standing Service Rules Committee, the Administrative Departments, fix schedule of the Standing Service Rules Committee meetings without consulting S&GAD and Finance Department. Needless to point out that representatives of those Departments do have other important official engagements/commitments.

2. Furthermore, the working papers/proposals for framing of service/ recruitment rules are forwarded to this Department shortly before the meeting. As such it becomes difficult to examine the proposals properly.

3. I am, therefore, directed to request you to kindly ensure that proposals/ working paper for framing/amending the rules shall be furnished to the S&GAD and Finance Department at least seven days, before the date of the meeting. The above instructions may be brought to the notice of all concerned for strict compliance.

(Authority S&GAD letter No.SORII(S&GAD)2(9)/98 dated 24.12.98)

Cases seeking advice of E&AD.

I am directed to say that under sub-rule (4) of Rule 9 of the NWFP Rules of Business, 1985, interpretation of rules and orders relating to service matters, other than rules and orders, issued by the Finance Department, has been assigned to this Department. In pursuance of this, this Department has in addition to publishing and supplying copies of the Establishment Manual (Vol.I), also issued from time to time, a large number of instructions covering almost all aspects of service matters to all concerned. In this connection, attention is invited to this Department circular letter No.SOR-III(S&GAD)(Misc-G)9(12)/86, dated 1.2.86 and even numbers dated 15.3.87, 30.6.88 and 14.11.89, on the above noted subject. It has, however, been observed that departments continue to refer cases without examination at their own level, for the advice of this Department and that too in an incomplete form and often without specifying point on which advice is required.

2. I am, therefore, directed to request once again that, in future, only those cases may please be referred to S&GAD for advice, where no clear rules/ instructions/clarification are available and the case cannot be decided without advice of this Department. Nevertheless, cases requiring advice of this Department may be referred in future, which may, inter alia contain the following information:-

i) Subject matter.

ii) Detailed background of the case and point for advice.

iii) Whether the case was referred earlier to the S&GAD and if so, what advice was given.

iv) Whether the case has also been referred to Finance Deptt/Law Deptt for examination and advice.

v) Whether the case actually concerns S&GAD and is being referred to S&GAD with the prior approval of Administrative Secretary concerned or otherwise.

3. Cases which are not referred in the above format alongwith detailed reasons/ justification shall be returned straight away without any examination.

4. I am, therefore, to request that in future the afore mentioned procedure may kindly be observed strictly.

(Authority S&GAD letter No.SORI(S&GAD)1-54/87, dated 17.2.1991)

Punctuality in attendance.

The Services and General Administration Deptt shall, from time to time, prescribe general office hours and break for prayers or for any other purpose.

2. The following procedure shall be adopted by all Departments for enforcing punctuality in attendance:-

a) All Administrative Secretaries shall take full responsibility for enforcing punctual attendance of officers and staff in their Departments and in the Attached Departments under their administrative control.

b) All members of staff shall observe office hours prescribed by the Government from time to time. Naib Qasid/Qasids will, however, attend offices at least 15 minutes before time to put things in order.

c) A separate attendance register shall be maintained for each Section/Branch. It shall include the names of all members of the staff (below the rank of B-16). All members of staff, whose names are entered in the Attendance Register, of the Section/Branch except Qasids and Naib Qasids should initial the register. Attendance of Naib Qasids and Qasids shall be marked in the following manners:-

   (i) "P" for punctual attendance in the case of Naib Qasids and Qasids and initial in the case of others;

   (ii) "D" for away on duty;

   (iii) "L" for leave; and

   (iv) "A" for absence without permission;

d) The register shall be initialed by the Branch Superintendent/Section Officer and placed before the Deputy Secretary concerned 10 minutes after the commencement of the office hours on each working day. This, however, should not be taken to mean that officials are at liberty to come 10 minutes late. They must be in their seats by the time fixed for arrival.

e) The Section/Branch Officer shall be held responsible for any delay in the submission of the register.

f) Officials who come late shall immediately on arrival report to the Deputy Secretary concerned and Officer Incharge of the Section who shall ascertain the reasons for late arrivals and take appropriate action in each case.

g) Cases of habitual late comers shall be brought to the notice of the Secretary for disciplinary action. In this connection, a monthly statement of defaulters should be submitted on the 1st of every month to the Secretary/Deputy Secretary (Administration) who will take suitable action against the officials concerned. Such action should demonstrate that habitual defaulters have been adequately punished.

h) A roster of attendance for duty after office hours and on gazetted holidays shall be maintained by each department subject to the instructions issued by the Government from time to time.

i) Occasional late attendance may be condoned after obtaining an oral explanation of the official concerned but one day's casual leave shall be debited to the casual leave account of the official for every three late arrivals in a month. He may also be issued a written warning.

j) Late arrival without any genuine reason be treated as misconduct under the NWFP (Efficiency and discipline) Rules, 1973.

k) Absence on short leave for one to three hours shall be treated half day's casual leave and debited to the casual leave account. Absence on leave for more than three hours on a day shall be taken as absence for the day.

l) Application for short leave for one hour or more sent from home should be treated as half day's casual leave and debited to the casual leave account. Six or more than six such applications without just cause during a month should be treated as habitual late attendance.

m) No member of the staff shall remain absent without prior permission. In case of absence due to unavoidable circumstances, it should be brought to the notice of the immediate officer on the day of the absence through any possible means. Absence for more than two days on ground of sickness must be supported by a medical certificate.

n) Every application for leave /casual leave should indicate the address at which the applicant can be contacted, if necessary; and

o) Occasional and surprise checks (frequency to be determined by the Secretary keeping in view the degree of defaulters and other circumstances) should be made by the Secretaries and Deputy Secretaries (Administration) to ensure that the system out-lined above, works smoothly.

Casual Leave.

(a) Government Servants are not entitled to casual leave as of right. Casual leave is granted by way of grace to enable government Servants to attend to their private affairs of casual nature. It is entirely within the discretion of the sanctioning authority either to sanction or refuse leave;

(b) Casual leave may not ordinarily exceed ten days at a time. The sanctioning authority may, however grant leave upto 15 days at a time under special circumstances.

(c) Casual leave may be granted in conjunction with Fridays or public holidays but not with any other kind of leave or joining time. When it is combined with holidays the total period shall not exceed 15 days at a time.

(d) Casual leave may be sanctioned under the authority of the Administrative Secretary or head of Office/Department by the Immediate Superior Officer of the government Servant concerned.

(e) All casual leave accounts other than that of the Administrative Secretary shall be maintained in the General Branch of the Department concerned. The casual leave account of the Administrative Secretary shall be maintained in the S&GAD.

(f) No Government Servant should leave his headquarters during casual leave or holidays without the permission of the leave sanctioning authority.

Other leave.

(a) For the purpose of long leave, every Department should keep a leave list for one calendar year in advance. All officers and staff should be required to state before the beginning of the year:-
   (i) the amount and kind of leave which they intend taking during the year; and
   (ii) the date from which such leave is required.

(b) The officer incharge of the General Branch in each Department shall then prepare a list by arranging the period of leave in one or more continuous chains, subject to the exigencies of public service and administrative convenience.

(c) This list (except in the case of Naib Qasids and Daftaries) would be forwarded with the recommendations of the Department to S&GAD for orders.

(d) Cases of Naib Qasids and Daftaries shall be decided by the Secretary concerned.

(e) The Secretary of the Administrative Department shall have the power to grant/sanction all kinds of leave except study leave and disability leave, to civil servants in B-17 and above other than the civil servants in All Pakistan Unified Grades, working in Attached Departments or any other office or organization.

(f) Study Leave and Disability leave being subjects relating to Finance Department shall be granted in accordance with the relevant rules/policy instructions issued by that department from time to time.

Punctuality--Attendance of official Meetings in the Chief Minister's Secretariat.

I am directed to refer to the subject noted above and to say that the Chief Minister NWFP in a case has been pleased to observe that official time is a public "Amanat" and every moment of the precious time be fully utilized in the public interest.

2. The Chief Minister NWFP has further been pleased to desire that all officers invited to the official meetings under his chairmanship, shall ensure their presence in the Chief Minister's Secretariat 15 minutes before time fixed for the meetings.

3. I am directed to request that above orders of the Chief Minister NWFP may kindly be noted and complied with in letter and spirit.

(Authority: letter No. SOR-VI/E&AD/Misc/2008/Vol-IVDated 12th May, 2009)

NWFP SERVICES TRIBUNAL ACT,1974.
(NWFP ACT NO.I OF 1974)

First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of North-West Frontier Province.

AN

[132]**ACT**

to provide for the establishment of Service Tribunal to exercise jurisdiction in respect of matters relating to the terms and conditions of service of civil servants.

Preamble:-WHEREAS it is expedient to provide for the establishment of Administrative Tribunals, to be called Service Tribunal, to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows**:-**

1. **Short title, commencement and application:-**(1) This Act may be called the North-West Frontier Province Services Tribunal Act,1974.

(2) It shall come into force at once.

(3) It applies to all civil servants wherever they may be.

2. **Definitions:-**In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

[133][" (a) "Civil Servant" means a person who is, or has been, a civil servant within the meaning of the North-West Frontier Province Civil Servants. Act,1973 (NWFP Act NO. XVIII of 1973)]";

(b) "Government" means the Government of the North-West Frontier Province'

(c) "Province" means the North-West Frontier Province; and

(d) "Tribunal" means a Services Tribunal established under Section 3.

3. **Tribunal:-**(1)The Governor may, by notification in the official gazette, establish one or more Service Tribunals and, where there are established more than one Tribunal, the Governor shall specify in the notification the class or classes of civil servants in respect of whom or the territorial limits within which, each such Tribunal shall exercise jurisdiction under this Act.

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[132] Published in the NWFP Government Gazette,Extraordinary, dated 28.3.1974 at Pages 600-606.

[133] (a)of Section 2 substituted by NWFP Act No.IX of 1974.

(2) A Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of service of civil servants, including disciplinary matters.

(3) A Tribunal shall consist of-

(a) a Chairman, being a person who [134][is] , has been , or is qualified to be, Judge of High Court; and

(b) not less than two and not more than four members each of whom is a person who has for a period of not less than fifteen years held a Class-I or an equivalent post under the Federal Government or a Provincial Government.

(4) The Chairman and members of a Tribunal shall be appointed by the Governor on such terms and conditions as he may determine.

(5) The Chairman or a member of a Tribunal may resign his office by writing under his hand addressed to the Governor.

(6) The Chairman or a member of a Tribunal may be appointed by name or by designation.

[135]3.A. **Ad hoc Appointment:-** The Governor, may if necessary or expedient, for a particular case or cases, make an ad hoc appointment on the Tribunal of person qualified to be Chairman or a member as the case may be".

4. **Appeal to Tribunal:-** Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [136]or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal having jurisdiction in the matter:

Provided that-

(a) where an appeal, review or a representation to a departmental authority as provided under the North-West Frontier Province Civil Servants Act,1973, or any rules against any such order, no appeal shall lie to a Tribunal unless the aggrieved civil servant has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application or representation was preferred;

(b) no appeal shall lie to a Tribunal against an order or decision of a departmental authority determining-

[134] The word inserted by NWFP Ordinance No.XV of 1982 Section 2

[135] Section"3A"inserted by NWFP Act No.XIII of 1976.

[136] The words inserted by NWFP No.IV of 1974.

(i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post or grade; or

(ii) the quantum of departmental punishment or penalty imposed on a civil servant as a result of a departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement [137](;and).

[138] (c) no appeal shall lie to a Tribunal against an order or decision of a departmental authority made at any time before the Ist July,1969.

Explanation:- In this section, "departmental authority" means any authority, other than a Tribunal, which is competent to make an order in respect of any of the terms and conditions of service of civil servants.

5. **Constitution of Benches:-**(1) There may be constituted one or more Benches, each consisting of-

(a) the Chairman alone; or

(b) the Chairman and one or more members; or

(c) one or more members,

to be nominated by the Chairman for the purpose of admitting appeals for hearing, or dismissing appeals in limini on grounds to be recorded in writing after having heard the applicant or his counsel;

Provided that, notwithstanding anything to the contrary contained in this Act, the Bench consisting of the Chairman and one or more members [139](or two or more members), may finally hear and dispose of appeal on merits;

Provided further that no orders shall be made by the Bench under this sub-section before giving the appellant or, as the case may be, the parties and their counsel an opportunity of being heard.

(2) In case a Bench consisting of more than one member is unable to arrive at a unanimous decision, its decision shall be expressed in terms of the view of majority;

Provided that where no majority view can be formed, the appeal shall be referred to other member, to be nominated by the Chairman, and the decision of the Bench shall be expressed in terms of the view of the majority.

(3) The Chairman may, at any stage, transfer cases from one Bench to another Bench or to the Tribunal.

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[137] The full stop replaced by semicolon and the word "and" inserted by NWFP Act No.IX of 1974.

[138] Clause (c)substituted by NWFP Act No.IX of 1974.

[139] The words inserted by act No.XIII of 1976.

(4) Any decision made by the Bench shall be deemed to be the decision of the Tribunal.

6. **Hearing of Appeals and their disposal:-**(1) Except as otherwise provided, the appeals admitted for hearing shall be heard and decided by the Tribunal, after giving the parties and their counsel an opportunity of being heard.

(2) If any member of the Tribunal is, for any reason, unable to take part in the proceedings of the Tribunal, the Chairman and the other member or members [140](or, as the case may be two or more members) may hear or continue to hear and finally dispose of the appeal.

(3) If a Tribunal is unable to arrive at a unanimous decision, its decision shall be expressed in terms of the view of the majority.

(4) In case of difference of opinion between the Chairman and member [141](,)or members, when the appeal is heard under sub-section(2) and no majority view can be formed, the appeal shall be referred to other member, and the decision of the Tribunal shall be expressed in terms of the view of the majority.

7. **Power of Tribunals:-**(1) A Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) A Tribunal or a Bench constituted under Section 5 shall, for the purpose of deciding any appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure 1908(Act V of 1908),including the powers of-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents;

(c) issuing commission for the examination of witnesses and documents.

[142](d) execution of its decisions.

(3) No court-fee shall be payable for preferring an appeal to, or filing, exhibiting or recording any document in, or obtaining any document from, a Tribunal.

8. **Abatement of suits and other proceedings:-**(1) Save as otherwise provided in section 10, all suits, appeals, or applications regarding any matter within the jurisdiction of a Tribunal pending in any court immediately before the commencement of this Act shall abate forthwith;

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[140]The words inserted by Act No.XIII of 1974 Section.4(a).

[141] Comma inserted by NWFP Act No.XIII of 1976 Section 4(b).

[142]Clause (d) added by NWFP Service Tribunal (Amendment Act, 2010) NWFP Act No.IV of 2010, Notification No.PA/NWFP BILL/7787, dated 26.2.2010

Provided that any party to such a suit, appeal or application may, within ninety days of the commencement of this Act, prefer an appeal to the appropriate Tribunal in respect of any such matter which is in issue in such suit, appeal or application.

(2) Where any suit, appeal or application regarding any matter within the jurisdiction of a Tribunal has been disposed of by any court other than the Supreme Court before the commencement of the North-West Frontier Province Service Tribunal Ordinance,1973 (N.W.F.P Ordinance No.1 of 1974),any party feeling aggrieved by the decision of such suit, appeal or application may, if such decision has not become final, within ninety days of the commencement of this Act prefer an appeal to the appropriate Tribunal in respect of any such matter which was in issue in such suit, application.

9. **Limitation:-**The provisions of section 5 and 12 of the Limitation Act,1908 (Act IX of 1908), shall apply for the purpose of appeals under this Act.

10. **Repeal and transfer of cases:-**(1)The North-West Frontier Province Civil Servants(Appellate Tribunals) Ordinance,1971(N.W.F.P Ordinance II of 1971), is hereby repealed.

(2) All appeals pending before the Tribunal constituted under the North-West Frontier Province Civil Services (Appellate Tribunals), Ordinance, 1971 (N.W.F.P Ordinance II of 1971), shall, with effect from the date of the commencement of this Act, stand transferred to the appropriate Services Tribunal established under this Act and be deemed as instituted under this Act.

11. **Power to make Rules:-**Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

12. **Repeal:-**The North-West Frontier Province Services Tribunal Ordinance,1973 (N.W.F.P Ordinance No.1 of 1974), is hereby repealed.

THE NWFP SERVICES TRIBUNAL RULES, 1974.

1. **Short title and commencement:-**(1) These rules may be called the [143]North-West Frontier Province Services Tribunal Rules,1974.

(2) They shall come into force at once.

2. **Definitions:-**In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "Act" means the North-West Frontier Province Services Tribunal Act,1974(N.W.F.P Act No.I of 1974).

(b) "Chairman" means the Chairman of a Tribunal;

(c) "Member" means a member of a Tribunal;

(d) "Registrar" means the Registrar of a Tribunal, and includes any other person authorised by the Tribunal to perform the duties and functions of the Registrar under these rules; and

(e) "Tribunal" means a Tribunal established under section 3 of the Act and includes a bench constituted under section 5 thereof.

3. **Working hours:-**A Tribunal shall observe such hours of sittings as it may determine.

4. **Holidays:-**A Tribunal shall observe such holidays as are notified by Government, and such local holidays as are observed by Civil Courts.

5. **Sitting of Tribunal:-**A Tribunal may hold its sittings at Peshawar or at any other place in the North-West Frontier Province which would be convenient to the parties whose matters are to be heard at such sittings.

6. **Procedure to prefer Appeal:-** (1) An appeal to the Tribunal may be sent by Registered Post or presented to the Registrar personally or through an Advocate, during working hours.

(2) Every memorandum of appeal shall-

(a) be legibly, correctly and concisely written, type written or printed;

(b) be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be separate allegation;

[143] These rules were published in the NWFP Government Gazette Extraordinary dated 20.9.1974 (Pages 224-27)

(c) contain the full name, official designation and place of posting of each party;

(d) clearly set out the relief claimed;

(e) be accompanied by-

(i) a copy of the seniority list or other order of the competent authority fixing seniority, or in other cases, copy of the impugned order; against which the appeal is directed;

(ii) copies of rules, orders and other documents on which the appellant proposes to rely in support of his claim;

Note: For the purposes of sub-clause(i)of clause(e), the appointing authority or any other authority which has been delegated the powers to make decision regarding seniority of a Govt. servant shall prepare and notify in the official Gazette a list of seniority of the members of the Subordinate Judiciary under its administrative control and the list so prepared shall be maintained upto date and shall be revised at least once a year preferably in the month of January.

(f) be signed by the appellant;

(g) be accompanied by three spare copies of the memorandum of appeal and as many other copies thereof, complete in all respects, signed by the appellant and accompanied by the documents referred to in clause(e) as there are respondents;

Provided that where the Tribunal is satisfied that it is not possible for an appellant to produce any document referred to in (e),it may waive the provision of the said clause.

(3) Every memorandum of appeal shall be presented to the Registrar in file covers and be accompanied by a typed or printed index of papers failing which the appeal may not be entertained.

(4) In every memorandum of appeal, the competent authority whose order is challenged shall be shown as Respondent No.1 and every civil servant to whom the relief may affect shall also be shown as respondent;

(5) Where an appeal is presented after the period of limitation prescribed in the Act, it shall be accompanied by a petition supported by an affidavit setting forth the cause of delay.

7. **Scrutiny of Appeals:-** The Registrar shall scrutinize every memorandum of appeal received by post, or presented to him and shall-

(a) If it is in order and drawn up in accordance with the foregoing provisions, cause it to be registered in the Register of Appeals to be maintained by the Tribunal;

(b) If it is not drawn up in the manner herein before prescribed, return it to the appellant or his advocate for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal, pointing out the deficiency;

(c) Where the memorandum of appeal is not drawn up in the manner herein before prescribed and the appellant or his advocate fails to amend the same within the period specified by the Registrar, the Tribunal may pass such order as it may deem fit.

8. **Admission of the time barred appeals:-**An appeal may be admitted after expiry of the period of limitation prescribed therefor when the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period and the decision of the Tribunal as to the sufficiency of cause shall be final.

9. **Fixation of date of hearing:-**(1)The Tribunal may, after fixing a day for hearing the appellant, and hearing him or where he is represented by an advocate, hearing the advocate, dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of day fixed for its hearing, issued under the signature of the Registrar or any other official authorised by him in this behalf, shall, subject to the provisions of Rule 10, be served on the appellant and the respondents, or their advocates if they are so represented, and on such other persons as the Tribunal may deem proper.

(3) Except as otherwise directed by the Tribunal, for reasons to be recorded in writing, the cases shall be fixed for hearing on their own turn, according to the dates of their admission.

10. **Deposit of Security, etc:-**(1) If the appeal is admitted, the appellant shall deposit with Registrar**:-**

(a) cash security for costs in the sum of Rs.100.00 (rupees one hundred only); and

(b) such cost of service of notices on the respondents as may be determined by the Registrar, including the cost of publication, if it is desirable to serve the notices by publication in the newspapers.

(2) If within 10 days of the admission of appeal, the appellant does not deposit the security and the cost of service of notices, the appeal may be dismissed.

11. **Service of Notices:-** (1) A notice under sub-rule (2) of rule 9 may be served by registered post or in any other manner as the Tribunal may direct.

(2) The notices to the respondents shall be accompanied by a copy of the memorandum of appeal and all the documents appended therewith.

(3) The Tribunal may, where the number of respondents is large or where otherwise the Tribunal considers it appropriate or desirable to do so, direct that in addition to sending a copy of the notice to the respondents by registered post, the notice shall be

published in one or more daily newspapers having circulation in the areas where the respondents ordinarily reside or are serving.

(4) Service of notice in accordance with the provisions of this rule shall be as effectual as it had been made on the respondents personally, and it shall not be necessary to prove that a party has actually received the notice.

12. **Submission of objections by respondents:-**(1)A respondent on whom a notice of appeal has been served under the provisions of rule 11 shall send his written reply by registered post(Acknowledgement Due) to the Registrar, or deliver the same to the Registrar personally or through an advocate, not later than seven days before the date specified in the notice for the hearing of the appeal.

[144] (2) The reply shall be correctly and concisely written, type written or printed, shall be signed by the respondent or a person duly authorised by him in writing in that respect and shall be accompanied by a copy of every seniority list or order or other documents on which the respondent wishes to rely in support of his case.

(3) The written reply shall be accompanied by 4 spare copies thereof, complete in all respects and containing copies of the lists, order and documents referred to in sub-rule(2), for use of the Tribunal.

13. **Determination of questions:-** (1) Questions arising for determination by the Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits, but the Tribunal may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit.

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

14. **Summoning of Witness:-** (1) A list of witnesses shall be presented to the Tribunal, and application for summoning witnesses before the Tribunal shall be made, within 10 days after the service of notice of appeal under Rule 11 which shall state whether they are required to give evidence or to produce any documents, shall give, where a witness is required to give evidence, a brief resume of the evidence he is expected to give, and where a witness is required to produce a document, give a brief description of the document so as to identify it.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule(1)will be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal, and direct that the daily allowance and traveling charges of such witness, at the rates admissible to witnesses appearing in the High Court, should be deposited by the person calling him, within the period to be specified by the Tribunal.

[144] Sub-rule (2) of rule 12 Substituted by Notification No. SOR-I(S&GAD)4.2./82,dated 14.1.99.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness, within the period specified by the Tribunal under sub-rule (2),or within any extension thereof that may be granted by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be deemed to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct him to be summoned.

(5) Where a Tribunal summons a witness under the provisions of sub-rule(4)-

(a) if such witness is a Government servant, his traveling and daily allowance, if any, shall be borne by Government; and

(b) if such person is a private person, his traveling and daily allowance shall be borne by the appellant.

(6) Process for service on witnesses of high rank shall be sent in the form of a letter.

(7) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the Head of his office.

15. **Evidence of witnesses:-**(1)The evidence of witnesses examined by the Tribunal shall be taken down under the superintendence of the tribunal, ordinarily in the form of a narrative and shall form part of the record.

(2) The Tribunal may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

16. **What may be urged by an appellant:-**The appellant shall not, except by the leave of the Tribunal, urge, or be heard in support of any ground of objections not set-forth in the memorandum of appeal, but the Tribunal, in deciding, the appeal shall not be confined to the grounds of objections set-forth in the memorandum of appeal or taken by leave of the Tribunal under these rules;

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the appeal on that ground.

17. **Notice Board:-**(1)A cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases to be set down in the cause list shall be in the order of the date of admission.

18. **Hearing of Appeal:-**(1)On the day fixed, or on any other day to which the hearing may be adjourned, the appellant or his advocate shall be heard in support of the appeal.

(2) The Tribunal shall then, if it does not dismiss the appeal at once hear the respondent or his advocate against the appeal and in such case, the appellant shall be entitled to reply.

[145]19. **Dismissal of Appeal on failure to appear by the Parties :-** (1) Where on the day fixed for the hearing of an appeal or any other day to which the hearing may be adjourned the appellant or his counsel, if any, does not appear when the appeal is called for hearing, the Tribunal may make an order that the appeal is dismissed.

(2) Where the appellant or his counsel, if any, appears and the respondent or his counsel, if any, does not appear the appeal shall be heard ex-parte.

(3) Where an appeal is dismissed under sub-rule(1) or an ex-parte order made under sub-rule (2), the Tribunal may for sufficient cause on an application made within 15 days restore the appeal or as the case may be set aside the ex-parte order on such terms as to costs or otherwise as it thinks fit.

Provided that no order of restoration of an appeal dismissed in default or setting aside the ex-parte order shall be made unless notice of the application has been served on the opposite party.

20. **Adding Respondent:-**When it appears to the Tribunal at the hearing that any person has not been made a respondent in the appeal is interested in the result of the appeal, the Tribunal may adjourn the hearing to a further day to be fixed by the Tribunal and direct that such person be made respondent.

21. **Pronouncement of Order:-**The Tribunal shall pronounce order in open court, either at once on the conclusion of arguments or on some future date of which notice shall be given to the parties or their advocates.

22. **Order regarding costs, etc:-**(1)The Tribunal may make such order as to the costs of proceedings before it as it deems fit.

(2) Any cost awarded by a Tribunal which cannot be paid out of the cash security deposited by the appellant within one month of the order awarding the costs, shall, on the certificate of the Tribunal, be recoverable from the appellant as arrears of land revenue.

23. **No entertainment of appeal in certain cases:-**The Tribunal not shall entertain any appeal in which the matter directly and substantially in issue has already been finally decided by a Court or a Tribunal of competent jurisdiction.

24. **Appellant precluded from bringing another appeal in certain cases:-**Where an appeal has been withdrawn by the appellant and is in consequence dismissed by the Tribunal, the appellant shall, unless otherwise directed by the Tribunal, be precluded from bringing another appeal in respect of the same cause of action.

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[145] Rule-19 substituted by Notification No.SORI(S&GAD)4-2/82,dated 4.6.1985.

25. **Administrative functions of the Tribunal to vest in the Chairman:-**The administrative functions of the Tribunal including the appointment of staff shall be performed by the Chairman on behalf of the Tribunal.

26. **Constitution of Benches:-**Where the amount of work so justifies the Chairman may, for the purpose of admission of appeals, constitute one or more benches, each bench consisting of one or two members to be nominated by the Chairman.

27. **Additional powers of the Tribunal:-**Nothing in these rules shall be deemed to limit or otherwise affect the powers of a Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

28. **Furnishing of copy of final adjudication order by the Tribunal to the competent authority:-**A copy of every order of final adjudication on an appeal shall be furnished by the Tribunal, free of cost, to the competent authority concerned which shall forthwith give effect to it.

29. **Inspection of Records:-**The provisions contained in the High Court Rules and Orders as applicable to the Peshawar High Court, in regard to copies of inspection of record, shall mutatis mutandis and to the extent practicable apply to proceedings before a Tribunal.

THE NORTH-WEST FRONTIER PROVINCE PUBLIC SERVICE COMMISSION ORDINANCE, 1978

N.W.F.P Ordinance No. XI of 1978

AN
ORDINANCE

to repeal and with certain modifications, re-enact the North-West Frontier Province Public Service Commission Act, 1973.

Preamble. - **WHEREAS**, it is expedient to repeal and, with certain modifications, re-enact the North-West Frontier Province Public Service Commission Act, 1973, (N.W.F.P Act XIX of 1973), in the manner hereinafter appearing;

AND WHEREAS, the Governor of the North-West Frontier Province is satisfied that circumstances exist, which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977(C.M.L.A Order No.1 of 1977),and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance: -

1. ***Short title and commencement. -*** (1) This Ordinance may be called the North-West Frontier Province Public Service Commission Ordinance, 1978.

(2) It shall come into force at once.

2. ***Definitions. -*** In this Ordinance, unless the context otherwise requires,__

a) "Commission" means the North-West Frontier Province Public Service Commission.

b) "Government: means the Government of the North-West Frontier Province;

c) "Governor" means the Governor of the North-West Frontier Province

d) "Member" means a member of the Commission and includes the Chairman thereof;

e) "Prescribed" means prescribed by rules made under this Ordinance; and

f) "Province" means the North-West Frontier Province.

3. ***Composition of Commission, etc.-*** (1) There shall be a Commission for the Province to be called the North-West Frontier Province Public Service Commission.

(2) The Governor shall by regulations determine, -

(a) the number of members and their terms and conditions of service; and

(b) the number of officers and servants of the Commission and their terms and conditions of service:

Provided that the salary, allowances and privileges of a member shall not be varied to his disadvantage during his term of office.

(3) The Chairman and other members shall be appointed by the Governor:

[146][Provided that a serving member of the Commission may be appointed as Chairman for a term not exceeding the un-expired portion of his term as such member.]

(4) Not less than one-half of the members shall be persons who have held office in the service of Pakistan for not less than twenty years [147][and has been retired in basic pay scale 20 or above.]

[148](5) Subject to sub-section (4), at least one of the members shall be a female.

4. Terms of office of members, etc. -

(1) [149] [A member of the Commission shall hold office for a term of [150][years] from the date on which he enters upon office and shall not be eligible for re-appointment:]

[152]Provided that, notwithstanding his taking oath, required by the provisions of section 4A, on a date subsequent upon his entering into office, the Chairman or a member shall hold office for his respective term from the date on which he entered upon office and not from the date of oath taking, and he shall not be eligible for reappointment.

(2) A member may resign his office by writing under his hand addressed to the Governor.

[153]4A. Oath of Office. - Before entering upon office, the Chairman and a member shall take oath in the form set out in the Schedule to this Ordinance, before the Governor in the case of Chairman, and before the Chairman in case of a member.

5. *[154]Ineligibility for further employment. -* On ceasing to hold office, a member shall not be eligible for further employment in the Service of Pakistan.

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146 The proviso to sub section (3) of section 3 inserted vide NWFP Public Service Commission (amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002), notified on 9th August, 2002.

147 The words "and has been retired in basic pay scale 20 or above" inserted in sub section (4) of section 3 vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002) notified on 9th August, 2002.

148 Sub section (5) added vide NWFP Public Service Commission (amendment) Act of 2010 (NWFP Act No.I of 2010), dated 18th January, 2010.

149 Sub section (1) of section 4 substituted vides NWFP (Ordinance No. XXVII of 2002), notified on 9th August, 2002.

150 In section 4 sub section (1) the word "Five" substituted with the word "Four" vide NWFP Public Service Commission (Second Amendment) Ordinance, 2002 (Ordinance No. XXXIX of 2002), notified on 9th October, 2002.

151 The word "Four" again substituted by word "Five" vide NWFP Public Service Commission Ordinance, 2004 (Ordinance No. 1 of 2004), notified on 6th August, 2004

152 Proviso to sub section (1) of section 4 substituted vide NWFP Public Service Commission (Second Amendment) Ordinance, 2002 (Ordinance No. XXXII of 2002, notified on 16th September, 2002.

153 Section 4A, inserted vide NWFP Ordinance No. XXVII of 2002, notified on 9th August, 2002.

154 Section 5, which was omitted by NWFP Act No.XX of 1987, again inserted vide NWFP Ordinance No. XXVII of 2002, notified on 9th August, 2002.

6. Removal from Office. - A member shall not be removed from office except in the manner applicable to a Judge of a High Court and upon a reference made by the Governor.

7. [155]Functions of the Commission. - (1) The functions of the Commission shall be___

(a) to conduct tests and examinations for recruitment of persons to. -

(i) the civil services of the Province and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent, and

(ii) posts in basic pay scales 11 to 15 or specified in following Departments (except the District cadre posts).

1. Civil Secretariat (through Establishment Department);
2. Board of Revenue;
3. Police Department;
4. Prison Department;
5. Communication & Works Department;
6. Irrigation Department;
7. Industries, Labour & Manpower Department;
8. Health Department;
9. Education department'
10. Local Government and Rural Development Department;
11. Excise and Taxation department;
12. Food department;
13. Physical Planning & Environment Department including Urban Development Board; and
14. Organizations, except autonomous bodies, under the Health and Education Departments;

(b) to advise the Governor___

(i) on matters relating to qualifications for, and method of recruitment to, services and posts referred to in clause (a);

(ii) on the principles to be followed in making:

(1) initial appointments to the services and posts referred to in clause (a);

(2) appointments by promotion to posts in BPS-17 and above; and

[155] Section 7 substituted vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002, notified on 9th August, 2002.

(3) transfer from one service to another; and

(iii) on any other matter which the Governor may refer tothe Commission.

Explanation. -In this section, recruitment means initial appointment other than by promotion or transfer.

(2) Recruitment to the following posts shall be outside the purview of the Commission:

(i) [156]post pertaining to household staff in the Governor's House and Chief Minister House;

(ii) posts to be filled on ad hoc basis for a period of [157]one year or less; provided that before filling the post, prior approval shall be obtained from the Commission;

(iii) posts to be filed by re-employing a retired officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before retirement.

8. Commission to be informed when its advice not accepted. - Where the Governor does not accept the advice of the Commission, he shall inform the Commission accordingly.

9. Report of Commission. - (1) It shall be the duty of the Commission to present to the Governor annually a report on the work done by the Commission, and the Governor shall cause a copy of the report to be laid before the Provincial Assembly.

(2) The report referred to in sub-section (1) shall be accompanied by a memorandum setting out so far as is known to the Commission__

(a) the cases, if any, in which the advice of the Commission was not accepted and the reasons therefor; and

(b) the matters, if any, on which the Commission ought to have been consulted but was not consulted and the reasons therefor.

10. Rules. - Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

[156] Clause (i) substituted vide NWFP PSC(Amendment) Act 2003 (NWFP Act No. XIV of 2003).
[157] The words "six months" substituted for the words "one year" by NWFP Public Service Commission (Amendment) Act, 2008 (NWFP Act No. VI of 2008) published in the NWFP Gazette extraordinary on 9th January 2009(page-327-328).

[158]10A. Power of the Commission to make regulation. - Subject to the provisions of this Ordinance and the rules made thereunder, the Commission may make regulations for carrying out the purposes of this Ordinance".

11. Repeal. - The North-West Frontier Province Public Service Commission Act, 1973 (N.-W.F.P. Act XIX of 1973), is hereby repealed.

SCHEDULE
[Section 4A]

I,__________________________ do solemnly swear that I will bear true faith and allegiance to Pakistan. That, as a Chairman (or Member) of the North-West Frontier Province Public Service Commission, I will discharge my duties and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law and always in the interest of the solidarity, integrity and well being and prosperity of Pakistan.

That I will not allow any personal interest to influence my official conduct or my official decisions and that in the performance of my functions, whether in the selection of persons for recruitment of appointment or in any other way, I will act without fear or favour, affection or ill-will.

(Appendix "A" added vide Notification No. SOR I (S&GAD) 1-99/ 73 (Vol.I) dated 9.4.1988)

[158]Section 10 A inserted vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002), notified on 9th August, 2002.

GOVERNMENT OF N.W.F.P.
SERVICES AND GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION

22nd December, 1983

No. SORI(S&GAD)1-99/ 73:- In exercise of the powers conferred by Section 10 of the North West Frontier Province Public Service Commission Ordinance, 1978 (N.W.F.P. Ord. XI of 1978), and in supersession of the North West Frontier Province Public Service Commission (Functions) Rules, 1974, the Governor of the North West Frontier province is pleased to make the following rules, namely: -

THE NORTH-WEST FRONTIER PROVINCE PUBLIC SERVICE COMMISSION (FUNCTIONS) RULES, 1983

1. Short title and commencement.- (1) These rules may be called the North-West Frontier Province Public Service Commission (Functions) Rules, 1983.

(2) They shall come into force at once.

2. **Definition. -** In these, rules, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say –

(a) "Commission" means the North-West Frontier Province Public Service Commission;
(b) "Examination" means a written examination prescribed for initial recruitment to any post or service;
(c) "Government" means the Government of the North West Frontier Province;
(d) "Initial Recruitment" means appointment made otherwise than by promotion or transfer;
(e) "Ordinance means the North-West Frontier Province Public Service Commission Ordinance, 1978;
(f) "Province" means the Province the North-West Frontier ;
(g) "Scale" means the Basic Scale of Pay in which a post or group of posts is placed;
(h) "Schedule" means the Schedule to these rules;
(i) "Test" include single paper screening test in the relevant field/ general knowledge and interview/ viva voce.

3. [159]**Functions of the Commission**. – The Commission shall

(a) Conduct tests and examinations for recruitment of persons to:

[159]Rule 3 substituted vide Notification No. SOR.I(E&AD)1-99/73 (Vol.IV) dated 2.11.2002.

i) the civil services of the Province and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent; and

ii) posts in Basic Scale 11 to 15 or equivalent specified in the following departments (except the District cadre posts):

1. Civil Secretariat (through Establishment Deptt)
2. Board of Revenue.
3. Police Department.
4. Prison Department.
5. Communication & Works Department.
6. Irrigation Department.
7. Industries, Labour, Manpower and Technical Education Department.
8. Health Department.
9. Education Department.
10. Local Government and Rural Development Department.
11. Excise and Taxation Department.
12. Food Department.
13. Physical Planning and Environment Department including Urban Development Department, and
14. Organizations, except autonomous bodies under the Health and Education Department.

(b) To advise the Governor: -

i) on matters relating to qualifications for, and methods of recruitment to, services and posts referred to in clause (a)

ii) on the principles to be followed in making;

1. initial appointments to the services and posts referred to in clause (a)
2. appointment by promotion to posts in BPS-17 and above; and
3. transfer from one service to another; and

(c) deal with any other matter which the Governor may refer to the Commission.

Explanation: - In this rule, recruitment means initial appointment other than by promotion or transfer."

4. **Exception**: - Notwithstanding anything to the contrary contained in rule 3, recruitment to the following posts shall be outside the purview of the Commission: -

i) posts in the Governor House;

ii) posts to be filled on ad hoc basis for a period of [160][one year] or less; provided that before filling the posts, prior approval shall be obtained from the Commission;

iii) posts to be filled by re-employing a retired officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before recruitment.

5. **Advice of the Commission to be ordinarily accepted**– The advice of the Commission shall ordinarily be accepted in all matters relating to the functions of the Commission. If it is proposed not to accept the advice of the Commission, the case shall be submitted to the Governor, through the Services and General Administration Department.

6 **Screening Test.** - In cases where there is no written examination prescribed, the Commission may decrease the number of candidates on the basis of their academic record in accordance with the formula at Appendix "A' with particular reference to the prescribed zonal allocation or by holding screening test in the relevant field or general knowledge. If it considers that calling all the eligible candidates for the viva voce would entail, on account of disproportionately excessive number of candidates as compared to the vacancies available, an in-ordinate delay or would otherwise be counter productive."

(ii) One mark shall be deducted for passing an examination in parts.

(iii) Ten marks shall be reserved for distinctions and will be awarded for standing 3rd, 2nd or 1st in University/ Board at the rate of 1, 2 and 3 respectively provided the examination was passed in the first division and was not a supplementary examination.

(iv) In exceptional cases where no division or marks are indicated in a Certificate or Degree, the Commission may adopt a judicious yardstick/ parameters for their relative academic assessment.

7. **Report of the Commission.** The report to be presented to the Governor under Section 9 of the Ordinance, shall be presented by the Commission by the 31st day of March in each calendar year. In addition to the memorandum referred to in the said section, the Commission may include in the report:

(a) the cases in which implementation of the recommendations of the Commission, in its opinion, was delayed;

(b) the cases pertaining to civil litigation, if any, in which the Commission was a party;

(c) details of posts for which adequate number of qualified candidates were not available; and

(d) any suggestion that the Commission considers appropriate for improvement of educational standard and service efficiency.

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[160] words "Six months" replaced with "one year" vide NWFP PSC (Amendment) Act, 2008 (NWFP Act No. VI of 2008) dated 9.1.2009.

APPENDIX " A "
FORMULA FOR ASSESSMENT OF ACADEMIC RECORD

(i) For the purpose of assessment of academic record of the candidates, their qualification and nature of the post shall be taken into view and it shall be categorized as Professional or Non-professional. The following formula shall apply to the two different categories: -

Division	For Professional Posts (40 Marks)				Division	For Non-Professional Posts (40 Marks)			
	Ist Professional	2nd professional	3rd Professional	4th Professional		Matric	F.A./ F.Sc	B.A./ B.Sc	M.A./ M.Sc
		~	**FOR FOUR EXAMINATIONS**						
1st Division	10	10	10	10	1st Division	4	8	12	16
2nd Division	8	8	8	8	2nd Division	2	6	10	14
3rd Division	6	6	6	6	3rd Division	1	5	9	13
			FOR THREE EXAMINATIONS						
1st Division	13	13	13	-	1st Division	10	14	16	-
2nd Division	11	11	11	-	2nd Division	8	10	12	-
3rd Division	8	8	8	-	3rd Division	6	8	10	-
			FOR TWO EXAMINATIONS						
1st Division	20	20	-	-	1st Division	15	25	-	-
2nd Division	16	16	-	-	2nd Division	12	20	-	-
3rd Division	12	12	-	-	3rd Division	10	15	-	-

NOTIFICATION

Dated 11th October, 2010

No.SO(E-I) E&AD/9-35/2010:- The competent authority is pleased to constitute with immediate effect a Search Committee, comprising the following for appointment of Members/Chairman, of the Khyber Pakhtunkhwa Public Service Commission, Peshawar:-

(i)	Chief Secretary, Khyber Pakhtunkhwa	Chairman
(ii)	Mr.Azam Khan, former Chief Secretary	Member (for 3 years)
(iii)	Additional Chief Secretary, P&D	Member
(iv)	Mr.Imtiaz Gillani, V.C. University of Engineering & Technology, Peshawar.	Member (for 3 years)
(v)	An MPA to be nominated by the Chief Minister.	Member (for duration of his incumbency)
(vi)	Secretary Establishment	Secretary

TORs OF THE COMMITTEE:

1. Least regard shall be paid to the zone to which the chairman belongs at the time of selection, but his domicile shall count for the purpose of zonal representation.
2. As far as possible equal representation in membership to different zones shall be ensured.
3. Technical services may be represented to the extent of two, one each from Engineering and Health Sector.
4. As far as possible technical member shall be replaced with a technical member.
5. The Search Committee shall ensure that the proposed members are:-

   (a) Domiciled in Khyber Pakhtunkhwa.

   (b) Persons of repute with known integrity and honesty with an unblemished record of public service.

   (c) Balanced and impartial.

   (d) In case of ex-government servants, have retired in BS-20 or above, with 20 years outstanding service and are selected in such a way that their term of office as members expires on attaining the age of 66 years.

   (e) Knowledgeable, well-read and broadly educated.

   (f) Keen of intellects and physically fit.

   (g) One female member is always to be ensured.

CHIEF SECRETARY,
GOVT. OF KHYBER PAKHTUNKHWA

Requisition to the NWFP Public Service Commission

I am directed to refer to the subject noted above and to state that it has been observed that piece-meal requisitions are sent by the Government Departments for filling in vacancies by the NWFP Public Service Commission. Sometimes calculation of vacant posts stems from short term estimates sans anticipation, whereas sometimes posts are not deliberately reported to the Commission. This practice, as a whole, is against the spirit of good governance resulting in inordinate but avoidable delays in the recruitment process and extension of undue advantage to ad hoc appointees. Consequently, efficiency of the services and improvement in service delivery cannot be achieved.

The competent authority after taking stock of the above situation has decided that henceforth all the Government departments/offices shall ensure that requisitions are sent to the NWFP Public Service Commission complete in all respects and should reflect not only all the existing vacant posts but also posts likely to become vacant during the next eighteen months on account of retirement etc falling to the initial recruitment quota under the rules. This will ensure that on arrival of the selectees of the Commission, all the vacant posts will be filled and government will not suffer.

I am, therefore, directed to request that the above decision may kindly be noted and also disseminated to all concerned for strict compliance.

(Authority; letter No.SOR-VI/E&AD/1-10/200/Vol.X, dated 7th October, 2008)

Appointments through Public Service Commission - Delays ,Causes and Remedies.

It has been observed that despite the aforesaid instructions, appointment of the selectees of the Commission is delayed on one or other reason which not only causes inconvenience to the selectees but also adversely affects functioning of the Government. I am therefore to emphasis once again that appointment orders of the selectees of the Commission should be issued within two months in case of serving candidates in whose cases perusal/verification of ACRs is involved and in other cases within one month.

2. It has also been observed that appointments in such cases are also delayed due to late medical examination of the candidates by the Standing Medical Board. The matter has been examined and in order to avoid delay, it has been decided not to wait for medical examination and process cases seeking approval of the Appointing Authorities subject to medical fitness of the selectees of the Commission by the aforesaid Board.

(Authority: Circular letter No.SORII(S&GAD)5(18)/85(Pt.I), dated 27.2.1992).

Piece-meal Requisition

It has been observed that the Departments some times do not report all the available vacancies to the Commission. This results not only in the delay of the recruitment process but also provides undue advantage to the Ad hoc /Contract appointees because such appointees are adjusted against the vacancies, which were not previously reported to the Commission. It is therefore requested that the Departments may please eschew the practice of placing

piecemeal requisitions. All vacancies of a year may please be placed on the Commission once for all to enable the Commission to make recommendations against all the available posts.

(Authority:-Sub Para (b) of Para 2 of circular letter No.SORII(S&GAD)5(18)/85, dated 12.12.1989.)

Verification of antecedents/Medical Examination

Verification of candidates shall be restricted to criminal record only. This reference to the Police Department will be made immediately after the appointment of a candidate and conveyed during his probationary period. The candidate shall, however, be examined medically by the Standing Medical Board before his appointment orders are issued.

(Authority:- Sub Para(k) of Para 2 of circular letter No SORII(S&GAD)5(18)/85, dated 12.12.1989.)

Determination of domicile of married women for entry into Government service.

I am directed to say that a question has arisen whether a female married candidate can be considered to have the same domicile as that of her husband.

The concept of domicile of a woman for the purpose of Government job has been analysed comprehensively by the Lahore High Court in Writ Petition No.397/S of 1972 in case Dr.Mrs.Munawar Zaheen Versus the Secretary, Punjab Public Service Commission, Lahore and 2 others (PLD 1974 Lahore 36) viz-a-viz the administrative instructions and statutory rules on the subject applicable in the Province of Punjab. The view taken by the Lahore High Court reads as follows:-

> "Woman Government servant –Acquire domicile of husband if married before entry into Government service, such servant if married after entry into Government service shall, however, retain her original domicile i.e. one held at the time of entry into service."

It has now been decided in consultation with Government of Pakistan, Justice Division, that if a woman got married before entry into Government service, she should be treated to have acquired the domicile of her husband, but if she got married after entry into Government service she should retain her original domicile held at the time of entry into service.

(Authority; No.SORII(S&GAD)5(9)/82, dated 9th February, 1989)

Exemption of female candidates from verification through Police Department for employment under the Government.

The competent authority has been pleased to exempt female candidates from Police verification on their appointment to Government Service. For verifying antecedents of female candidates a certificate from gazetted officer in BPS-17 and above be treated as sufficient.

(Authority; letter No.SOR.III(E&AD)9-8/86, dated 4.3.2002)

Joining Time

Prescribed period for joining Government Service.

No time limit stands prescribed in any rule for joining Government service by a selectee of NWFP Public Service Commission. In order to guard against any inordinate delays in joining service by selectees of the Commission, I am directed to request you to kindly ensure that in future a period of 30 days of joining time should invariably be stipulated in the offer of appointment to the selectees to Government service.

(Authority:Letter No.SORII(S&GAD)1(26)/86, dated 20.10.1986).

THE NWFP SUBORDINATE JUDICIARY SERVICE TRIBUNAL ACT,1991.

1. **Short title, application and commencement:-** (1) This Act may be called the North-West Frontier Province Subordinate Judiciary Service Tribunal Act,1991.

(2) It shall apply to all members of subordinate Judiciary wherever they may be.

(3) It shall come into force at once.

2. **Definition:-** In this Act, unless the context otherwise requires**:-**

(a) "Chairman" means the Chairman of the Tribunal;

(b) "Government" means the Government of the North-West Frontier Province.

(c) "Governor" means the Governor of North-West Frontier Province;

(d) "Member" means a Member of the Tribunal and includes the Chairman;

(e) "Members of Subordinate Judiciary" means and include all the Judicial Officers under the administrative control of the Peshawar High court;

(f) "Tribunal" means the Service Tribunal established by this Act and includes a Bench thereof.

3. **Tribunal:-** (1) The Governor may by Notification in the Official Gazette establish a Service Tribunal for the North-West Frontier Province.

(2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to terms and conditions of the service of members of Subordinate Judiciary including disciplinary matters.

(3) The Tribunal shall consist of four sitting Judges of the Peshawar High Court to be nominated by the Chief Justice of whom the senior most shall be the Chairman.

Provided that Judge against whose orders an appeal is preferred shall not be member of the Tribunal.

4. **Constitution of Benches:-** (1) Notwithstanding anything contained in Section 3, Chairman may constitute a Bench consisting of two Members with or without the Chairman and when so constituted a Bench shall be deemed to be a Tribunal.

(2) If a Bench is unable to arrive at an unanimous decision in an appeal, the matter shall be referred to any one of the remaining two Members of the Tribunal as the Chairman may determine and the decision of the Tribunal shall be expressed in terms of the opinion of the majority.

(3) The Chairman may at any stage of hearing of an appeal withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.

5. **Appeal to Tribunal:-** Any member of Subordinate Judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the Tribunal, whichever is later, prefer an appeal to the Tribunal.

Provided that-

(a) where an appeal, review or representation to a departmental authority is provided under the North-West Frontier Province Civil Servants Act,1973 (NWFP Act XVIII of 1973), or any rules against any such orders, no appeal shall lie to the Tribunal unless the aggrieved person has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application, or representation was so preferred;

(b) no appeal shall lie to the Tribunal against an order or decision of a departmental authority determining-

(i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post; or

(ii) the quantum of departmental punishment or penalty imposed on a member of Subordinate Judiciary as a result of departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement or any minor penalty as defined in the rules.

Explanation:-In this section "Departmental Authority" means the authority, other than a Tribunal which is competent to make an order in respect of any of the terms and conditions of service of members of Subordinate Judiciary.

6. **Powers of Tribunal:-** (1) The Tribunal may, on appeal, confirm set aside vary or modify the order appealed against.

(2) The Tribunal shall for the purpose of deciding any appeals, be deemed to be a Civil Court and shall have the same powers as are vested in sub court under the Code of Civil Procedure,1908(Act V of 1908), including the powers of-

(a) enforcing the attendance of any person and examining him on oath.

(b) compelling the production of documents; and

(c) issuing commission for the examination of witnesses and documents.

(3) No court fee shall be payable for preferring an appeal to or filing, exhibiting or recording any document in, or obtaining any document from a Tribunal.

7. **Limitation:-**The provisions of Section 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under this Act.

8. **Transfer of Appeal:-** All appeals pending before the Tribunal established under the North-West Frontier Province Service Tribunal Act,1974(NWFP Act I of 1974) , relating to members of Subordinate Judiciary shall stand transferred to the Tribunal established under this Act.

9. **Rules :-** The Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Act.

10. **Repeal:-**The North-West Frontier Province Subordinate Judiciary Service Tribunal Ordinance, 1991(NWFP Ord.No.III of 1991) is hereby repealed.

**NWFP SUBORDINATE JUDICIARY
SERVICE TRIBUNAL RULES,1991.**

1. **Short title and commencement :-**(1) These rules may be called the North-West Frontier Province Subordinate Judiciary Service Tribunal Rules,1991.

(2) They shall come into force at once.

2. **Definition:-**In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "Act" means the North-West Frontier Province Subordinate Judiciary Service Tribunal Act, 1991 (NWFP Act No.VIII of 1991);

(b) "Chairman" means the Chairman of the Tribunal.

(c) "Member" means a member of the Tribunal.

(d) "Registrar" means the Registrar of the Tribunal, and includes any other person authorised by the Tribunal to perform the duties and functions of the Registrar under these rules; and

(e) "Tribunal" means the Tribunal established under section 3 of the Act and includes a Bench constituted under section 4 thereof.

3. **Working hours:-**The Tribunal shall observe such hours of sittings as it may determine.

4. **Holidays :-**The Tribunal shall observe such holidays as are notified by Government, and such local holidays as are observed by the Peshawar High Court, Peshawar.

5. **Sitting of Tribunal:-**The Tribunal shall hold its sitting at Peshawar.

6. **Procedure to prefer Appeal:-**(1) An appeal to the Tribunal may be sent by Registered post or presented to the Registrar personally or through an advocate, during working hours.

(2) Every memorandum of appeal shall-

(a) be legibly, correctly and concisely written or printed;

(b) be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be separate allegation;

(c) containing the full name, official designation and place of posting of each party;

(d) clearly set out the relief claimed;

(e) be accompanied by-

(i) a copy of the seniority list or other order of the competent authority fixing seniority, or in other cases, copy of the impugned order; against which the appeal is directed;

(ii) copies of rules, orders and other documents on which the appellant proposed to rely in support of his claim;

(f) be signed by the appellant;

(g) be accompanied by four spare copies of the memorandum of appeal and as many other copies thereof, complete in all respects, signed by the appellant and accompanied by the document referred to in clause(e), as there are respondents;

Provided that where the Tribunal is satisfied that it is not possible for an appellant to produce any document referred to in clause (e), it may waive the provision of the said clause.

Note: For the purposes of sub-clause(i) of clause(e), the appointing authority or any other authority to whom the powers to make decision regarding seniority of a member of the Subordinate Judiciary have been delegated shall prepare and notify in the official Gazette a list of seniority of the members of the subordinate Judiciary under its administrative control and the list so prepared shall be maintained upto date and shall be revised at least once a year preferably in the month of January.

(3) Every memorandum of appeal shall be presented to the Registrar in the covers and be accompanied by a typed or printed index of papers failing which the appeal may not be entertained.

(4) In every memorandum of appeal, the competent authority whose order is challenged shall be shown as Respondent No.1 and every civil servant who may be affected by the relief claimed, shall also be shown as respondent;

Provided that if the competent authority whose order is challenged is the Chief Justice or a Judge of the Peshawar High Court through the Registrar, Peshawar High Court shall be shown as Respondent No.1.

(5) Where an appeal is presented after the period of limitation prescribed in the Act, it shall be accompanied by a petition supported by an affidavit setting forth the cause of delay.

7. **Scrutiny of appeals:-** The Registrar shall scrutinize every memorandum of appeal received by post, or presented to him and shall-

(a) if it is in order and drawn up in accordance with the foregoing provisions, cause it to be registered in the Register of Appeals to be maintained by the Tribunal;

(b) if it is not drawn up in the manner herein before prescribed, return it to the appellant or his advocate for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal, pointing out the deficiency;

(c) where the memorandum of appeal is not drawn up in the manner herein before prescribed and the appellant or his advocate fails to amend the same within the period specified by the Registrar, the Tribunal may pass such order as it may deem fit.

8. **Admission of the time barred appeals:-**Any appeal may be admitted after expiry of the period of limitation prescribed therefor when the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period and the decision of the Tribunal as to the sufficiency of cause shall be final.

9. **Fixation of date of hearing:-** (1) The Tribunal may, after fixing a day for hearing the appellant, and hearing him or where he is represented by an advocate, hearing the advocate, dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of the day fixed for its hearing, issued under the signature of the Registrar or any other official authorised by him in this behalf, shall, subject to the provisions of Rule 10, be served on the appellant and the respondents, or on their advocates if they are so represented, and on such other persons as the Tribunal may deem proper.

(3) Except as otherwise directed by the Tribunal, for reasons to be recorded in writing, the cases shall be fixed for hearing on their own turn, according to the dates of their admission.

10. **Deposit of Security etc:**- (1) If the appeal is admitted, the appellant shall deposit with the Registrar**:-**

(a) cash security for costs in the sum of Rs.100.00 (rupees one hundred only); and

(b) such cost of service of notices on the respondents as may be determined by the Registrar, including the cost of publication, if it is desirable to serve the notices by publication in the newspapers.

(2) If within 10 days of the admission of appeal, the appellant does not deposit the security and the cost of service of notices, the appeal may be dismissed.

11. **Service of Notices:-**(1) A notice under sub-rule(2) of Rule 9 may be served by registered post or in any other manner as the Tribunal may direct.

(2) The notices to the respondents shall be accompanied by a copy of the memorandum of appeal and all the documents appended therewith.

(3) The Tribunal may, where the number of respondents is large or where otherwise the Tribunal considers it appropriate or desirable to do so, direct that in addition to sending a copy of the notice to the respondents by registered post, the notice shall be published in one or more daily newspapers having circulation in the areas where the respondents ordinarily reside or are serving.

(4) Service of notice in accordance with the provisions of this Rule shall be as effectual as if it had been made on the respondents personally, and it shall not be necessary to prove that a party has actually received the notice.

12. **Submission of objections by respondents:-**(1) A respondent on whom a notice of appeal has been served under the provisions of Rule 11 shall send his written reply by registered post(Acknowledgement Due) to the Registrar, or deliver the same to the Registrar personally or through an advocate, not late than seven days before the date specified in the notice for the hearing of the appeal.

(2) The reply shall be correctly and concisely written, type written or printed, shall be signed by the respondent and shall be accompanied by a copy of every seniority list, or order or other documents on which the respondent wishes to rely in support of his case.

(3) The written reply shall be accompanied by 4 spare copies thereof, complete in all respects and containing copies of the lists, order and documents referred to in sub-rule(2), for use of the Tribunal.

13. **Determination of questions:-**(1) Questions arising for determination by the Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits, the Tribunal may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit.

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

14. **Summoning of Witnesses:-**(1) A list of witnesses shall be presented to the Tribunal, and application for summoning witnesses before the Tribunal shall be made, within 10 days after the service of notice of appeal under Rule 11 which shall state whether they are required to give evidence or to produce any documents, shall give, where a witness is required to give evidence, a brief resume of the evidence he is expected to give, and where a witness is required to produce a document, give a brief description of the document so as to identify it.

(2) If the Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule(1) will be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal, and direct that the daily allowance and traveling charges of such witness, at the rates admissible to witnesses appearing in the High Court, should be deposited by the person calling him, within the period to be specified by the Tribunal.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness, within the period specified by the Tribunal under sub-rule(2), or within any extension thereof that may be granted by the Tribunal, the application for

summoning of witnesses, so far as it relates to such witness, shall be deemed to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct that the witness be summoned.

(5) Where a Tribunal summons a witness under the provisions of sub- rule(4)-

(a) if such witness is a Government servant, his traveling and daily allowance, if any, shall be borne by Government; and

(b) if such person is a private person, his traveling and daily allowance shall be borne by the appellant.

(6) Process for service on witnesses of high rank shall be sent in the form of a letter.

(7) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the Head of his office.

15. **Evidence of witnesses:-**(1) The evidence of witnesses examined by the Tribunal shall be taken down under the superintendence of the Tribunal, ordinarily in the form of a narrative and shall form part of the record.

(2) The Tribunal may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

16. **What may be urged by an appellant:-**The appellant shall not, except by the leave of the Tribunal, urge, or be heard in support of any ground of objections not set forth in the memorandum of appeal, but the Tribunal, in deciding, the appeal shall not be confined to the grounds of objections set-forth in the memorandum of appeal or taken by leave of the Tribunal under these rules:

Provided that the Tribunal shall not rest its decisions on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the appeal on that ground.

17. **Notice Board:-**(1) A cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal, cases to be set down in the cause list shall be in the order of the date of admission.

18. **Hearing of Appeal:-**(1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant or his advocate shall be heard in the support of the appeal.

(2) The Tribunal shall then, if it does not dismiss the appeal at once hear the respondent or his advocate against the appeal and in such case, the appellant shall be entitled to reply.

19. **Consequence of Non-appearance of the Appellant or Respondent:-** (1) Where on the day fixed for the hearing of an appeal or any other day to which the hearing may be adjourned the appellant or his counsel, if any, does not appear when the appeal is called for hearing, the Tribunal may make an order that the appeal stands dismissed.

(2) Where the appellant or his counsel, if any, appears and the respondent or his counsel, if any, does not appear, the appeal shall be heard ex-parte.

(3) Where an appeal is dismissed under sub-rule(1) or an ex-parte order made under sub-rule(2), the Tribunal may for sufficient cause on an application made within 15 days restore the appeal or as the case may be set aside the ex-parte order on such terms as to costs or otherwise as it thinks fit.

Provided that no order of restoration of an appeal dismissed in default or setting aside the ex-parte order shall be made unless notice of the application has been served on the opposite party.

20. **Adding Respondent:-** When it appears to the Tribunal at the hearing that any person who has not been made a respondent in the appeal is interested in the result of the appeal, the Tribunal may adjourn the hearing to a further day to be fixed by the Tribunal and direct that such person be made respondent.

21. **Pronouncement of Order:-**The Tribunal shall pronounce order in open court, either at once on the conclusion of arguments or on some future date of which notice shall be given to the parties or their advocates.

22. **Order regarding costs, etc:-**(1) The Tribunal may make such order as to the costs of proceedings before it as it deems fit.

(2) Any cost awarded by a Tribunal which cannot be paid out of the cash security deposited by the appellant under Rule 10, if not paid by the appellant within one month of the order awarding the costs, shall, on the certificate of the Tribunal, be recoverable from the appellant as arrears of land revenue.

23. **No entertainment of appeal in certain cases:-**The Tribunal shall not entertain any appeal in which the matter directly and substantially in issue has already been finally decided by a court or a Tribunal of competent jurisdiction.

24. **Appellant precluded from bringing another appeal in certain cases:-**Where an appeal has been withdrawn by the appellant and is in consequence dismissed by the Tribunal, the appellant shall, unless otherwise directed by the Tribunal, be precluded from bringing another appeal in respect of the same cause of action.

25. **Administrative functions of the Tribunal to vest in the Chairman:-**The administrative functions of the Tribunal except the appointment of staff shall be performed by the Chairman on behalf of the Tribunal.

26. **Constitution of Benches:-**Where the amount of work so justifies the Chairman may, for the purpose of admission of appeals, constitute one or more benches, each bench consisting of two members to be nominated by the Chairman.

27. **Additional powers of the Tribunal:-**Nothing in these rules shall be deemed to limit or otherwise affect the powers of a Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

28. **Furnishing of copy of final adjudication order by the Tribunal to the competent authority.** A copy of every order of final adjudication on an appeal shall be furnished by the Registrar, free of cost, to the competent authority concerned which shall forthwith give effect to it.

29. **Inspection of Records:-**The provisions contained in the High Court Rules and Orders as applicable to the Peshawar High Court, in regard to copies of inspection of record, shall mutatis mutandis and to the extent practicable apply to proceedings before a Tribunal.

Misc. Instructions regarding Court/Litigation cases

CONDUCT OF CASES IN THE COURTS.

The existing instructions regarding the conduct of cases of Provincial Government in courts etc. are given in appendix XXV:-

APPENDIX-XXV

Instructions regarding the conduct of cases of the Provincial Government in courts etc.

(Suit of legal proceedings by Government)

No civil suit or legal proceedings shall be instituted or initiated on behalf of the Provincial Government by any Department without the prior consultation with the Law Department.

2. When the Administrative Department concerned considers it advisable that a suit or legal proceedings be instituted or initiated on behalf of the Government a detailed and clear report should be furnished to the Law Department showing**:-**

(a) The circumstances which, in the opinion of the Administrative Department, render institution of the suit or legal proceedings necessary.

(b) The subject of the claim and the relief sought.

(c) The steps which have been taken so far to obtain satisfaction of the claim.

(d) The pleas or objections, if any, which have been urged by the opposite party against the claim.

(e) The evidence, which is believed to be obtainable and which it is proposed to adduce in support of the claim.

(f) Any other facts which the Administrative Department may consider material or relevant to the case.

(g) List of property moveable and immovable and/or securities from which it is proposed to realize the amount claimed, if decreed.

3. Copies of all documents referred to in the report should, as far as possible, accompany the report, where for any reason, the copies cannot be supplied, the original should be submitted.

4. If the Law Department agrees, it will nominate a counsel to file and conduct the suit or legal proceedings.

Defence of suits, etc

5. No suit/legal proceedings be defended if the claim and relief sought is justified and genuine.

6. The object of the notice prescribed by Section 80 of the Code of Civil Procedure is to allow ample time to the Government to enquire into the genuineness or otherwise of the claim or relief sought and to affect a settlement of all just claims before a suit is brought and the best use should be made of the opportunity thus given by the law towards equitable and amicable adjustment of claims.

7. When notice of an intended suit is given under Section 80 of the Civil Procedure Code, the officer to whom it is delivered, or the Head of office at which it is left, should forthwith endorse, or cause to be endorsed on the notice:-

(a) the date and time of receipt;

(b) the manner of delivery ; and

(c) the signature of the officer making the endorsement with date.

8. The departmental officer concerned should, immediately on receiving any notice of an intended suit, proceed to enquire into the matter and to consider the claim put forward and move the proper authority to decide, in consultation with the Law Department whether any, and if so, what steps should be taken to adjust the claim(whether in whole or in part) or whether the notice-giver be left to take such legal action as he may deem proper.

9. When the departmental authority having power to deal with the case is clearly of the opinion that the whole or any part of the claim put forward is justly due, he should, in consultation with the Law Department proceed to endorse settlement thereof accordingly.

10. Any amount held to be justly due to the claimant should be formally and unconditionally tendered to him without prejudice and without requiring him to give an acquittance in full adjustment of his claim, but upon a receipt for the sum tendered. No tender of payment or payments should be made after the suit has been brought except with the approval of and in accordance with the instructions of the Law Department.

11. Under Order V, Rule 2, CPC, the summon in a suit is required to be accompanied by a copy of the plaint or concise statement thereof. If a summon is not accompanied by a copy of plaint/petition, or concise statement, service should be refused, if possible, with a note requesting for a copy of the plaint/petition and the matter should be brought to the notice of the Law Department forthwith . In no case, the duplicate copy of the summons, when received, should be returned to the court before showing the case to the Law Department.

12. At subsequent stages of a suit and in appeals copy of plaint/petition, or of memo of appeal is not sent with the notice and quite often Departments find it difficult to link those notices with the main case in dispute. It is, therefore, imperative that in each Department, a Section, herein after referred to as the Litigation Section, should be earmarked for dealing with or coordinating the litigation cases. This section should receive all summons/notices

from courts, maintain a nominal index of litigation cases in the following form, in a Register, and keep a watch over their progress:-

Name of Parties	Nature of cases.	Subject	Court	Counsel	File No.	Result
ABC Vs Pakistan	Civil Suit or Appeal	Service matter	High Court Peshawar	A.G Peshawar	…	Dismissed

13. Where service of summon/notice not accompanied by a copy of plaint has been affected, the court issuing the summon, not being a High Court or the Supreme Court, should be immediately requested to supply the same and extend the date of hearing accordingly. The matter should simultaneously be reported to the Law Department for further advice and appropriate action in the matter. The envelopes of such summon/notice should be kept intact.

14. When a summon has been duly served, the Litigation Section should, after noting its particulars in the Nominal Index Register, pass it on to the concerned officer or Department who should collect relevant information and documents/ papers from the concerned quarters, examine the matter thoroughly and then refer it to the Solicitor to the Provincial Government in the Law Department for further examination and nomination of an Advocate to undertake the defence of the case, if considered necessary.

15. Where a summon does not give adequate time for examination and arranging defence, an authorised officer of the Administrative Department concerned should appear in person in the Court and apply, under Rule 5 XXVII of the First Schedule to the Code of Civil Procedure, for a reasonable extension of time. In the absence of prior notice under Section 80 CPC, the Court is obliged to give at least 3 months time for the filing of written statement and first hearing.

16. In case of application for interim injunction pendentelite, time allowed is usually 3 to 7 days. If, for any reason, it is not possible to arrange defence in time, some recognised agent i.e a person holding power of attorney in this behalf, should appear in the Court on the date of hearing and seek adjournment for about 15 days. Thereafter, the case should be referred to the Solicitor with utmost dispatch.

Usually, plaints are to be read as part of the application for interim injunctions but quite often copies of plaint are not supplied by Courts alongwith notices for the hearing of such applications. Where copies of plaint are not so received, the same should be procured from the Court before referring case to the Law Department.

17. After the Law Department has examined the case and nominated an Advocate to defend/conduct it in a Court of law, a responsible officer of the Administrative Department concerned well-conversant with the facts of the case, and preferably stationed at or near the seat of the Court, should contact and brief the counsel at the earliest and well before the next date of hearing of the case. This responsibility should never be left to the subordinate staff.

18. Although it should not normally be necessary for the departmental representative to be present in the Court on each date of hearing, he should remain in touch with the counsel and keep watch over the progress of the case. Whenever required by the counsel he must present himself in the Court and render all possible assistance to the counsel in the conduct of

the case, as if it was his personal case, where, however, a Department has an officer at the station where the suit is pending, some one may be deputed to attend the Court and assist the counsel on each date of hearing regularly.

Action on termination of Proceedings.

19. As soon as a suit is decided, particularly when the decision is adverse to the Government, the Administrative Department concerned should apply immediately, in the prescribed form, to the concerned Deputy Commissioner or the District Judge for copies of judgement and decree sheet "for official use" These would be supplied free of cost. In addition, the counsel should also be asked to apply separately for certified copies of judgement and decree-sheet.

Appeals

20. If the decision is either wholly or partially adverse to the Government, the matter should be reported immediately to the Solicitor. Complete record of the case, alongwith copies of judgement and decree-sheet, should be sent to him thereafter as soon as these copies become available.

> **Note:** Certified copies of judgement etc. should be kept by the Department in safe custody, as the same may have to be filed in court if appeal is to be filed and photostat copies thereof should be placed on the file. In fact, original of all important documents should be kept by the Department in safe custody as soon as litigation or threat of litigation starts.

21. Although time is the essence in litigation in general, in appeal it is of utmost importance because the time allowed for appeals is limited and appeals filed after the expiration of limitation period are ordinarily dismissed as barred by time and no appeal lies against the refusal of a court to condone delay. It is, therefore, very necessary that the litigation cases in general and appeals in particular should be handled with promptness and diligence.

When time left for filing an appeal is less than 7 days, an officer of the Administrative Department, not below the rank of Deputy Secretary, should bring the file personally to the Solicitor.

> **Note:** This should be followed in other court cases as well when the date of hearing falls within 7 days.

Preparation of Joint Para-wise Comments by Departments on behalf of Chief Secretary, S&GAD and other Respondents in the Court cases.

Reference Law Department's Circular No.E&A(LD)6-1/91 dated 4.12.1993 which interalia provides that the Section Officer (Litigation) S&GAD will process the cases for acquiring approval/authentication of the parawise comments already cleared by the Litigation Cell S&GAD where Chief Secretary or Secretary S&GAD is made as respondent . Other matters related to the litigation cases in which the S&GAD is involved will also be dealt with by the Section Officer(Litigation).

2. It has, however, been observed that the Administrative Departments do not observe the above formality and file separate Parawise comments, exclusive of S&GAD before the Services Tribunal/High Court despite the fact that Chief Secretary, NWFP and Secretary S&GAD are also respondents and joint parawise comments are, thus, required to be submitted/filed before the court.

3. It is evident that S&GAD is not in possession of all the record pertaining to the court cases of all Administrative Departments, therefore, parawise comments on behalf of Chief Secretary and Secretary S&GAD delays abnormally which results in exparte decrees against Chief Secretary and Secretary S&GAD. Ensuing financial losses, annoyance of Judges and displeasure of Chief Minister and Chief Secretary is the produce of such in-direct default of Government officials which needs to be checked and eliminated.

4. I am, therefore, directed to request that all concerned may kindly be directed to comply with the requirements of Law Department order mentioned in Para-1 above so as to avoid delay in submitting the joint parawise comments within the prescribed period to the Court concerned. This will not only facilitate the immediate disposal of the appeals/petitions but will also enable the proper defence of Government actions.

(Authority:-SO(Lit)S&GAD/Ins.Misc.97, dated 25.5.1998.)

Preparation of Joint Para-wise comments by Departments on behalf of Chief Secretary, S&GAD and other Respondents in the Court cases.

Reference S&GAD's circular letter No.SO(Lit)S&GAD/ INS.MISC/97, dated 25.5.1998 which makes it incumbent upon all concerned to file joint para-wise comments in the Courts in cases where more than one Departments/Offices are involved or where Chief Secretary NWFP and Secretary S&GAD are also respondents.

2. It has, however, been observed that most of the Departments, in flagrant disregard to the above policy, prepare and submit separate parawise comments instead of joint parawise comments, which results not only in delays in the submission of joint parawise comments but also jeopardizes interest of the Government in Courts when comments/replies having differences of opinion between the Governments are filed in the Courts.

3. I am, therefore, directed to request once again that all concerned may kindly be directed to strictly observe the above policy in cases where more than one Departments are involved or the Chief Secretary NWFP and Secretary S&GAD are also respondents. In such cases joint parawise comments should invariably be prepared by the Administrative

Departments concerned and shall be got vetted by the Advocate General NWFP/Government Pleader, as the case may be. Fair copies of joint parawise comments, after signature of Administrative Secretary concerned and other respondents shall be furnished to S&GAD for signature of the Chief Secretary NWFP or Secretary S&GAD as the case may be.

(Authority:-SO(Lit)S&GAD/4-19/97. Dated 2nd Sept.1998.)

Signing of para-wise comments etc in service appeals filed in the NWFP Services Tribunal by civil servants.

I am directed to refer to the subject noted above and to say that pursuant to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority has been pleased to authorize the Administrative Secretaries concerned or subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc on behalf of the Chief Minister, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal.

(Authority; No.SORI(S&GAD)4-2/02, dated 15.1.1999)

Signing of parawise comments etc in service appeals.

I am directed to refer to the subject noted above and to state that in partial modification of this Department letter No.SOR-I(S&GAD)4-2/82, dated 28th April 1999, the competent authority has been pleased to authorize the Additional Secretary (Judicial) Establishment Department to sign the para-wise comments in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal on behalf of Chief Secretary, NWFP and Secretary, Establishment NWFP.

2. This Department letter of even number, dated 17th December 2007 stands rescinded.

(Authority; letter No. SOR-VI/E&AD/1-23/2005,Dated 12th January 2008)

Lack of interest in defending court cases by the responsible Officers of various provincial departments.

I am directed to refer to the Establishment and Administration Department Government of NWFP Notification bearing No.SOR.II(E&AD) 10(1)87, dated 7.8.2001 on the subject noted above and to say that all the Provincial Government Departments appearing in the Services Tribunal are always junior/senior clerks who are not well conversant with the record and unable to assist the Tribunal properly.

It is, therefore, requested that the departments concerned may be directed to depute a well conversant officer not below BPS-17 in future to appear before the Tribunal alongwith complete record of the case.

(Authority; Service Tribunal letter No.1655-80/ST, dated 22.11.2007)

Non compliance of Court related instructions.

I am directed to refer to the subject noted above and to say that it has come to the notice of the Provincial Government that inspite of clear instructions circulated to all concerned vide letter dated 15-1-1999 wherein Secretaries of the Administrative Departments have been authorized to sign joint Para wise comments in appeals pending for adjudication before the NWFP Services Tribunal on behalf of Chief Minister NWFP and the Chief Secretary NWFP as the case may be in cases of service appeals filed by the Civil Servants in the NWFP Services Tribunal. But it is appalling to note that instructions issued by this Department have lost sight of cases are still referred to this Department for signature of Chief Secretary NWFP in Service appeals. In some cases Departments do not bother to submit comments to courts. This practice results in unnecessary delay of the court cases beside issuance of court order detrimental to the interest of the Provincial Government.

2. I am therefore, directed to request that these instructions may be followed in letter and spirit. Moreover, a BPS-17 officer well versed with relevant records should be deputed to defend the case and brief the Government Pleader alongwith the relevant record of the case well before the date fixed by the NWFP Services Tribunal or other Courts so as to assist him.

(Authority: letter No. SOR-VI/E&AD/1-23/2009, Dated 8th May, 2009)

Instructions Pertaining to Courts' Cases

I am directed to refer to the subject noted above and to say that it has come to the notice of the Provincial Government that despite clear instructions circulated vide this Department letter of even number dated 15.1.1999 wherein Secretaries of the Administrative Departments had been authorized to sign joint Para wise comments in service appeals, on behalf of the Chief Minister NWFP and the Chief Secretary NWFP, as the case may be, filled by the Civil Servants in the NWFP Services Tribunal. However, it has been noticed that instructions referred to above have lost sight of, as cases are still referred to this Department for obtaining signature of the Chief Secretary NWFP on para-wise comments in such service appeals. Instances have also come to notice that the departments do not submit para-wise comments or submit the desired comments quite delayed which defeat the interest of Government in such cases. Moreover, cases against Government are not properly pursued and defended in courts resulting in judgements against Government creating huge liabilities for the Government.

2. I am therefore, directed to request that the above instructions may kindly be strictly followed in future so as to safeguard the interest of the Provincial Government. Moreover, an officer in BS-17 well versed with the relevant records, should be deputed to defend the cases in courts and brief the Government pleader alongwith relevant records well before the date fixed for hearing.

(Authority: letter No.SOR-VI/E&AD/1-23/2009, dated 20th May, 2009)

Streamlining of Litigation procedure for and against the Government of NWFP.

It has been noticed with concern that great difficulties are being faced by the Law Officers and Government Pleaders in conducting cases/appeals/ revisions/writ petitions, etc., before the Courts/Tribunal noted against each:

(A)	(i) Advocate General	Peshawar High Court, Peshawar.
	(ii) Addl.Advocates General;	Supreme Court of Pakistan and Federal Shariat Court, Appellate Shariat Bench of Supreme Court.
	(iii) Asstt.Adv General	Supreme Court
(B)	Government Pleaders	Services Tribunal, NWFP Peshawar in Service matters.
(C)	(i) Government Pleaders;	Court of Senior Civil Judge.
	(ii) Addl Government Pleader	Court of Senior Civil Judges, Court of Addl Distt: Judges, Courts of District Judges.

2. The subordinate officers do not extend the requisite assistance to them. Necessary documents e.g, copies of the plaint, brief history of the case, parawise comments, etc, are not provided to them well within time. Consequently, it becomes extremely difficult, some times impossible, for the Law Officers/Government Pleaders to prepare/defend the cases properly. The officers who are deputed to contact, brief and assist the Law Officers/Government Pleaders, do not take the trouble of attending their offices or for that matter even the Courts. Instead, some clerks who are not at all conversant with the facts of the case, are sent to handle such extremely important task. Most of the time these officials miserably fail to provide any assistance to the Law Officers whatsoever as a result of which the Government interest suffers badly. In most of the cases even these clerks absent themselves, on one pretext or the other, on the date fixed for hearing of the case and as such orders are passed against the Government, resulting in great financial loss besides creating other complications/ embarrassment.

3. I am, therefore, directed to request you that the following instructions may please be issued immediately to all concerned including the officers who are deputed to brief and assist the Law Officers/Government Pleaders conducting the cases in various Courts including the High Court/Supreme Court:-

(i) On receipt of summons/notices from the Court, the concerned staff should immediately get a copy of plaint/Memo. of Appeal/Writ Petition, as the case may be and prepare brief history of the case alongwith parawise comments in annotated form.

(ii) One set of these documents should be sent to the Head of the Department for onward transmission to the Administrative Department for issuance of Sanction Order for the defence of case at public expense as required under Para 15.2 of Law Manual. The Administrative Department will issue the Sanction Order and communicate the same to **:-**

(a) the Solicitor for issuing necessary directions to the Government Pleader to defend the case in the Lower Courts , i.e Courts of Civil Judges/Senior Civil Judges/ Additional District Judges/District Judges and Services Tribunal, Peshawar. The Administrative Department should also endorse **a** copy of the same to the Secretary to Government of NWFP, Law Department, with the request to direct the Solicitor to do the needful;

(b) the Law Department for issuance of necessary authorisation/ directions to the Advocate General to defend the cases/Writ Petitions/Appeals, etc., in the High Court/ Supreme Court/Federal Shariat Court/Shariat Appellate Bench of Supreme Court of Pakistan.

(iii) The second set of the said documents should be dispatched to the concerned Government Pleader/Advocate General, as the case may be, so that action on their part in anticipation of the sanction mentioned above is initiated, if needed.

(iv) The third set be retained as office copy for necessary action and record.

(v) The above mentioned steps should be taken before the date fixed for appearance/hearing in Court. If the date fixed is quite close, the Government Pleader/Advocate General may be contacted immediately for the purpose of getting adjournment. At the same time it should be ensured that the court is attended invariably on the date fixed for hearing of the cases to avoid ex-parte decisions against the Government/Departments.

(vi) The Heads of the Administrative Departments on receipt of the documents mentioned above, should, on the one hand, arrange for communication of Sanction Order for the defence of the case at public expense to the Solicitor (if the case is pending in Lower Courts) and to the Law Department (if the case/Writ Petition is pending in the High Court/Supreme Court etc.)and on the other hand, without any loss of time, to nominate an efficient and responsible officer of the Department well conversant with the facts of the case to assist and brief the Government Pleader/ Advocate General. Such officers/officials may be called the Departmental Representatives (Deptt: Rep:)

(vii) The name, designation, address and telephone No: if any, of the Deptt. Rep. should invariably be communicated to the Government Pleader/Advocate General concerned, as well as to the Administrative Department, Solicitor and the Law Department so that he could be contacted by them, whenever it is deemed necessary.

(viii) The Deptt: Rep: shall personally attend the Court on each and every date of hearing and prepare a short report of the proceedings of the Court, indicating the progress and result of the case. This progress report should also be communicated to the Head of the Department as well as to the Law Department without fail, so that the Law Department may also watch the development and progress of each case.

(ix) When a case is decided, copy of the judgement/order should immediately be obtained by the Deptt: Rep: and supplied to the Administrative Department as well as to the Government Pleader/Advocate General so as to enable him to furnish his opinion to Solicitor /Law Department. The department's decision/ views about the future course of action should also be finalized and communicated to the Solicitor/Law Department for further action.

(x) Period of limitation prescribed by law for filing appeal/revision etc., should be ascertained from the Government Pleader/Advocate General and all steps should be taken well ahead of the limitation period so that the appeal/revision etc if any, is not rendered time-barred.

(xi) Whenever it is deemed necessary to approach the Solicitor/Law Department, reference number of authorisation letter issued by the office of Solicitor/Law Department should always be mentioned, so that relevant record of the case in their offices is traced out conveniently.

Writ Petitions

(a) Whenever the Honourable Judges of the High Court ask for the comments from the contesting Department in connection with Writ Petitions filed against the Government, the staff of the Contesting Department (main party in the case) should immediately get a copy of Writ Petition alongwith its enclosures and copy of order of the Court, from the Writ Petition Muharrer, and then prepare parawise comments in an annotated form. In addition thereto a brief history of the case should also be prepared separately and sent with two spare copies of Writ Petition to the Administrative Department for information and onward transmission to the Law Department.

(b) The Law Department will direct the Advocate General to vet the comments. Thereafter the Deptt: Rep: shall contact the Advocate General and assist him in vetting the same and will file the vetted comments before the High Court within the prescribed period. The Deptt Rep: shall be held responsible for any delay in submission of the requisite comments before the High Court.

(c) If the Writ Petition is decided against the Government the procedure mentioned in Para 3(ix) and (x) shall be followed in letter and spirit so that further appeal, if any, to the Supreme Court does not become barred by time.

Various provisions of Limitation Act,1908

The periods of limitation prescribed for various kinds of appeals, etc., are as under:-

No. of article of the first Schedule to the Limitation Act,1908, or other relevant rules and description of Limitation for appeal or application.	Period
From a decree or order of High Court in the exercise of its original jurisdiction.	20 days
Under the Code of Civil Procedure to the Court of a District judge.	30 days
Under the Code of Civil Procedure to a High Court.	90 days
Application to set aside or to get an award remitted for reconsideration.	30 days from the date of service of notice of filing of the award.
For a review of judgement by a Court of Small Causes.	15 days
For a review of judgement by High Court.	20 days
Application by defendant to set aside a decree passed Ex-parte.	30 days from the date when he has knowledge of the decree.
Application for the filing in court of an award.	90 days where leave to appeal is refused by the High Court otherwise 60 days.
For appeal to the Supreme Court where certificate of fitness is granted by High Court.	30 days from the date of grant of certificate.

2. In computing the period of limitation, the days from which such period is to be reckoned and in case of appeals or application for review, the day on which the judgement complained against is pronounced and the time requisite for obtaining a copy of the judgement decree appealed from or sought to be reviewed is to be excluded.

<u>Execution</u>

3. A decree favourable to Government may be executed either by the court which passed it or by such other court in whose jurisdiction, the judgement debtor voluntarily resides or carries on business, or personally works for gain or owns property sufficient to satisfy the decree. While referring a case for execution of a decree it is, therefore, necessary that an inventory of the moveable property, containing a reasonably, accurate description of the same, and a list of immoveable property, containing a description and location of such property sufficient to identify the same, and a specification of the judgement-debtor's share or interest in property, should be furnished to the Solicitor.

If an appeal is instituted by the opposite party and the execution of the decree is stayed by order of the court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgement-debtor.

Writ Petitions

4. The instructions in the preceding paragraphs apply mutatis mutandis to Writ Petitions. It is however, to be noted that High Court usually calls for reports/comments from the Administrative Departments concerned before admitting the petitions to regular hearing. Failure to comply with the orders of the High Court may lead to the admission of petitions to regular hearing which may then take long time to be decided. It is, therefore, imperative that the reports/ comments asked for should be promptly supplied to the High Court and where it is not possible the High Court may be requested, before the expiry of the time allowed, for reasonable extension. The report/comments should be shown to the Law Department before sending the same to the High Court.

Arbitration

5. According to Government decision no provision is to be made in agreement with domestic contractors for resolution of disputes through arbitration. However, if the agreements already concluded by or on behalf of the Government contain any condition of getting any question, difference or dispute decided by reference to arbitration then the same has to be acted upon and the instructions contained herein before apply mutatis mutandis to the conduct of arbitration proceedings to which a Department of the Provincial Government is a party.

Expenses

6. All expenses on the conduct of litigation, including cost, court fees, counsel fee, not being the decretal amount of costs payable to the other party under the decree or order of the court, are payable by the Law Department out of the funds placed at its disposal. The penal costs ordered by the court to be paid to the other party for any default on the part of the Government and the charges payable to the witnesses are, however, to be paid by the Administrative Department concerned.

All expenses in criminal cases are payable by the Administrative Departments concerned.

Mode of submission of cases

7. To ensure quick disposal of files to avoid unnecessary correspondence and delay a self-contained summary of the case indicating the point or points on which the advice of the Law Department is required should be placed on the file in duplicate in the opinion cases and at least in triplicate in court cases, parawise comments, on plaints/petitions should also be furnished in triplicate. Such references to the Law Department from the Department should be made preferably at a senior level.

8. Draft of parawise comments, etc, should be typed in double space and half margin should be left to enable the Law Department to carry out amendments wherever considered necessary.

9. Standardized court labels(S-209-A to 212-B) obtainable from the Controller of Stationery and forms, should be used while sending a court case to the Law Department.

10. If a reference is made to an earlier advice of the Law Department the number and date of that advice must invariably be quoted and if possible, a copy of the same be placed on the file. Whenever a case is referred to the Law Department and any previous opinion of the Law Department on the point at issue is within the knowledge of the referring Department it should also invariably be quoted in the referring note indicating the number and date of that previous opinion.

11. Unnecessary references on which the Department should themselves be able to formulate opinion should not be referred to the Law Department. With particular reference to drafting of pleadings and affidavits, it should be noted that while an officer signing any pleading or affidavit on behalf of the Government has every right to be satisfied that there is no mis-statement of facts. Actual drafting or pleading and affidavits and the choice of working have always been the privilege and the responsibility of the counsel conducting a case on behalf of the Government. Therefore, so long as facts are correctly set out in the pleadings or affidavit, there should hardly be any occasion for objection as to the contents, arrangements or wording used by counsel in such pleadings or affidavit and should not normally be referred to the Law Department for vetting.

Services and General Administration Department (Now E&AD)

12. The case touching upon service mattes and interpretation of financial rules and regulations should be referred to the Services and General Administration Department or, as the case may be, to the Finance Department in the first instance and the assistance of Law Department should be sought only if a question of law is involved.

13. Where a Department obtains an opinion from the Law Department, the referring Department should not in announcing Government's decision(i.e department's own decision) disclose that the Law Department was consulted. Care should be taken that endorsement in such cases meant for the Law Department are not carried out in the copies meant for other Department.

14. While the Law Department would welcome, where considered expedient, back references from the Administrative Department for consideration of its opinions, but such reference should be at least from the same level at which level opinion was tendered in the Law Department.

15. Where in any case there is a difference of opinion between the Law Department and the Department concerned and the later desires to consult Advocate General it should send to the former all relevant papers together with a self contained summary of the case precisely indicating the points on which advice of the Advocate General is sought. Under no circumstances a case is to be referred to the Advocate General by the Administrative Department directly.

16. The Secretary in each Department will be personally responsible for the observance of these instructions by his subordinates including officers in the attached offices. He should ensure that his subordinates do not disregard these instructions. When a case is finally disposed of and decided against the Government, he should have an inquiry instituted in the matter and take appropriate action against the concerned officials where the judgement has gone against the Government because of the non-observance of the rules or procedures on the part of the dealing officials. Where any lacunae in law or procedure is revealed steps should be taken to amend the law or the rules, as the case may be, if considered necessary and expedient.

A D D E N D U M

THE NWFP AD HOC CIVIL SERVANTS (REGULARIZATION OF SERVICES) ACT,1987. (N.W.F.P ACT NO.II OF 1987.)

[161]*An Act* to provide for regularization of services of certain civil servants appointed on ad hoc basis.

Preamble:- WHEREAS it is expedient in the public interest to provide for regularization of the services of certain civil servants appointed on ad hoc basis;

It is hereby enacted as follows**:-**

1. **Short title and commencement:-**(1) This Act may be called the North-West Frontier Province Ad hoc Civil Servants(Regularization of Services)Act, 1987.

(2) It shall come into force at once and shall be deemed to have taken effect at the promulgation of the Ordinance.

2. **Definitions:-**(1) In this Act unless the context otherwise requires**:-**

(a) "Commission", means the North-West Frontier Province Public Service Commission;

(b) "Government" means the Government of the North-West Frontier Province;

(c) "Law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and

(d) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

[161] Published in the NWFP Government Gazette, Extraordinary, dated 19.3.1987 at pages 1374-1376.

(2) The expression" ad hoc appointment" and "Civil Servants" shall have the same meaning as respectively assigned to them in the North West Frontier Province Civil Servants Act, 1973(N.W.F.P Act No.XVIII of 1973)

3. **Regularization of Services of certain Civil Servants:-**Notwithstanding anything contained in any law or rule, or in any decree, order or judgement of a court, all civil servants holding ad hoc appointment to a post on or before 20th September,1986, and continuing as such till the commencement of this Act, shall be deemed to have been validly selected and appointed to the posts held by them on regular basis with effect from the date of commencement of this Act.

Provided that**:-**

(i) the services of such civil servants shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette;

(ii) such civil servants possess the qualifications and experience prescribed for the posts; and

(iii) the Commission has in respect of the posts held by such civil servants not recommended any other person on or before the commencement of this Act.

4. **Determination of Seniority:-** (1) The civil servants whose services are regularized under this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons , if any, who, in pursuance of the recommendation of the Commission made before, the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority *inter-se* of the civil servants, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre; provided that if the date of continuous officiation in the case of two or more civil servants is the same, the civil servant older in age shall rank senior to the younger civil servant.

5. **Repeal:-** The North-West Frontier Province Ad hoc Civil Servants(Regularization of services) Ordinance, 1987 (N.W.F.P Ordinance No.1 of 1987) is hereby repealed.

THE NORTH WEST FRONTIER PROVINCE CIVIL SERVANTS (REGULARIZATION OF SERVICES) ACT,1988. (N.W.F.P ACT NO.I OF 1988.)

[162]An Act *further to provide for regularization of services of certain civil servants appointed on Ad hoc basis.*

Preamble:- WHEREAS it is expedient in the public interest to provide for regularization of the services of certain civil servants appointed on ad hoc basis;

It is hereby enacted as follows**:-**

1. Short title and commencement:-(1) This Act may be called the North-West Frontier Province Civil Servants (Regularization of services)Act,1988.

(2) It shall come into force at once.

2. Definitions:-(1) In this Act unless the context otherwise requires,-

(a) "Commission" means the North-West Frontier Province Public Service Commission;

(b) "Government" means the Government of the North-West Frontier Province;

(c) "Law or rule" means the law or rule for the time being in force governing the selection and appointment of civil servants; and

(d) "post" means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions" ad hoc appointment" and "Civil Servants" shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act,1973(N.W.F.P Act No.XVIII of 1973).

[162] Published in the NWFP Government Gazette, Extraordinary, dated 23.1.1988 at Pages 1270-1272.

3. Regularization of Services of certain Civil Servants:-Notwithstanding anything contained in any law or rule for the time being in force, but subject to preferential right of appointment of a selectee of the Public Service Commission, if any, selected before the commencement of this Act, all civil servants holding appointment to a post on ad hoc basis in any department of Government immediately before the commencement of this Act, shall be deemed to have been selected for appointment on regular basis on the commencement of this Act:

Provided that**:-**

(a) the services of such civil servants shall be deemed to have been regularized under this Act only on the publication of their names in the official Gazette; and

(b) such civil servants possess the qualification and experience prescribed for the posts to which they are appointed on regular basis.

4. Determination of Seniority:-(1)The civil servants whose services are regularized under this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before, the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority inter-se of the civil servants, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre; provided that if the date of continuous officiation in the case of two or more civil servants is the same, the civil servant older in age shall rank senior to the younger civil servant.

1. *[Repealed]*.

5. Ban on recruitment on ad hoc basis:- [163]Notwithstanding anything contained in any law or rule there shall be no recruitment by way of ad hoc appointments for a period of ten years from the date of commencement of Act.

[164]The Government may fill in short term or temporary vacancies by way of contractual appointments in such manner and on such terms and conditions as may be prescribed for a period not exceeding two years during which period the selectees of the PSC against the vacancies, to fill in the posts, shall be made available by the PSC"

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[163] Section -5 repealed by NWFP Act No.VIII of 1989. The repealed section 5 is re-produced as under

[164] .Published in the NWFP Govt. Gazette,Extraordinary at Pages 633-636 dt 13.11.89.

THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES ON CONTRACT BASIS (REGULARIZATION OF SERVICES) ACT,1989 (N.W.F.P ACT NO.VIII OF 1989)

[165]An Act to provide for regularization of services of certain employees appointed on contract basis in Government Departments of the North-West Frontier Province

Preamble:-WHEREAS it is expedient to provide for regularization of services of certain employees appointed on contract basis in Government Departments of North-West Frontier Province;

It is hereby enacted as follows**:-**

1. Short title, extent and commencement:-(1)This Act may be called the North-West Frontier Province employees on Contract Basis (Regularization of Services)Act,1989.

(2) It shall come into force at once.

(3) It shall extend to the whole of North-West Frontier Province.

2. Definitions:- In this Act unless the context otherwise requires**:-**

(a) "Government" means the Government of North-West Frontier Province.

(b “Government Department" means any Department constituted under rule 3 of the Government of the North-West Frontier Province Rules of Business,1985 and does not include any section of a Department or an organization which is Federally funded;

(c) "Post" means a post in any Government Department; and

(d) "Public Service Commission" means the Public Service Commission constituted under the provisions of the North-West Frontier Province Public Service Commission Ordinance,1978 (N.W.F.P Ordinance No.XI of 1978) hereinafter referred to as Commission.

3. Special provision regarding employees on contract basis:-Notwithstanding anything contained in sub-section (1) of Section 2 of the North-West Frontier Province Civil Servants Act,1973 (N.W.F.P Act No.XVIII of 1973), any candidate appointed on contract basis in any Government Department against any post on contract basis under Section 5 of the North-West Frontier Province Civil Servants (Regularization of Services) Act,1988 (N.W.F.P Act No.I of 1988) till the commencing day of this Act shall be deemed to have been appointed as a Civil Servant on ad hoc basis, and shall always be deemed to have been so appointed.

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[165] Section 4 substituted by NWFP Act No.II of 1990.

4. (1) Notwithstanding anything contained in any law for the time being enforce, any Civil servant, who is or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to eligibility, according to the service rules applicable to the post, verified by the Administrative Secretary of the Department concerned;

Provided that if any Civil Servant is aggrieved regarding his eligibility, he shall have one right of appeal to the Chief Secretary, Government of North-West Frontier Province, and his decision in the case shall be final;

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual services only the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the civil servants under this Act shall be determined by the Government, according to service rules in vogue.

5. Repeal of Section 5 of N.W.F.P. Act No.I of 1988:-Section 5 of the North-West Frontier Province Civil Servants (Regularization of Services) Act, 1988, (N.W.F.P. Act No.I of 1988),is repealed and shall always be deemed to have been so repealed.

THE NORTH-WEST FRONTIER PROVINCE EMPLOYEES ON CONTRACT BASIS (REGULARIZATION OF SERVICES) (AMENDMENT) ACT,1990 (N.W.F.P ACT NO.II OF 1990.)

An Act to amend the North-West Frontier Province Employees on Contract basis (Regulation of Services)Act,1990.

Preamble:- WHEREAS it is expedient to amend the North-West Frontier Province Employees on Contract Basis (Regularization of Services) Act, 1989 (N.W.F.P Act No.VIII of 1989), for the purposes hereinafter appearing;

It is hereby enacted as follows**:-**

1. Short title and commencement:-(1) This Act may be called the North-west Frontier Province Employees on contract Basis (Regularization of Services)(Amendment) Act,1990.

(2) It shall come into force with effect from 13th November,1989.

2. **Substitution of Section 4 of NWFP Act No.VIII of 1989:-** In the North-West Frontier Province Employees on contract basis (Regularization of Services) Act,1989 (N.W.F.P Act No.VIII of 1989) , section 4 shall be substituted by the following new section and shall always be deemed to have been so substituted**:-**

[166]4. (1)Notwithstanding anything contained in any law for the time being enforce, any Civil Servant, who is or has been appointed or deemed to have been appointed against any post in any Government Department under section 3 of this Act shall be deemed to have been regularly appointed from the date of his continuous officiation, subject to eligibility, according to the service rules applicable to the post, verified by the administrative Secretary of the Department concerned.

Provided that if any Civil servant is aggrieved regarding his eligibility, he shall have one right of appeal to the Chief Secretary, Government of North-West Frontier Province, and his decision in the case shall be final;

Provided further that if there is any gap in service of any Civil Servant between this enactment and the date of appointment under section 3 of this Act, due to termination of contractual service only, the same shall be deemed to have been condoned as extraordinary leave without pay.

(2) The inter se seniority of the Civil Servants under this Act shall be determined by the Government, according to the service rules in vogue.

[166] Published in the NWFP Government Gazette,(Extraordinary),at Pages 1036/5-1036/7, dated 25.2.1990.

THE NORTH-WEST FRONTIER PROVINCE, EMPLOYEES (REGULARIZATION OF SERVICES) ACT, 2009 (N-W.F.P. ACT NO.XVI OF 2009)

An Act to provide for the regularization of the services of certain employees appointed on ad hoc or contract basis

Preamble.---- WHEREAS it is expedient to provide for the regularization of the services of certain employees appointed on ad hoc or contract basis, in the public interest, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement:-** (1) This Act may be called the North-West Frontier Province Employees (Regularization of Services) Act, 2009.

(2) It shall come into force at once at once and shall be deemed to have been taken effect at the promulgation of the Ordinance.

2. **Definition.:-** (1) In this Act, unless the context otherwise requires:-

(a) “Commission” mean the North-West Frontier Province Public Service Commission;.

(aa) “contract appointment” means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment;

(b) “employee” means an ad hoc or a contract employee appointed by Government on ad hoc or contract basis or second shift/night but does not include the employees for project post or appointed on work charge basis or who are paid out of contingencies;

(c) “Government means the Government of North-West Frontier Province.

(d) “Government Department” means any department constituted under rule 3 of the North-West Frontier Province Government Rules of Business, 1985.

(e) “Law or rule” mean the law or rule for the time being in force governing the selection and appointment of civil servants; and

(f) “post” means a post under Government or in connection with the affairs of Government to be filled in on the recommendation of the Commission.

(2) The expressions “ad hoc appointment” and “civil servant” shall have the same meanings as respectively assigned to them in the North-West Frontier Province Civil Servants Act, 1973(N-W.F.P. Act No.XVIII of 1973).

3. **Regularization of services of certain employees:-** (1) All employees including recommendees of the High Court appointed on contract or ad hoc basis and holding that post on 31st December, 2008 or till the commencement of this Act shall be deemed to have been validly appointed on regular basis having the same qualification and experience for a regular post;

Provided that the service promotion quota of all service cadres shall not be affected.

4. **Determination of Seniority**:- (1) The employees whose services are regularized under this Act or in the process of attaining service at the commencement of this Act shall rank junior to all civil servants belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendations of the Commission made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority inter se of the employees, whose services are regularized under this Act within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre.

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employee older in age shall rank senior to the younger one.

4A. **Overriding effect :-** Notwithstanding anything to the contrary contained in any other law or rule for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule to the extent of inconsistency to this Act shall cease to have effect.

5. **Repeal:-** The North-West Frontier Province employees (Regularization of Services) Ordinance, 2009 (N-W.F.P. Ordinance NoVII of 2009) is hereby repealed.